R 264

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

JULIUS HOBSON, et al., :

Plaintiff, :

v. : CA No. 76-1326

JERRY WILSON, et al., : Vol. 3

Defendant. :

Washington, D. C.

December 1, 1981

The above-entitled matter came on for trial before the HONORABLE LOUIS F. OBERDORFER, United States District Court Judge, in Courtroom No. 3.

APPEARANCES:

On Behalf of the Plaintiffs:

DANIEL M. SCHEMBER, ESQ.
J. E. McNEIL, ESQ.
ANNE PILSBURY, ESQ.

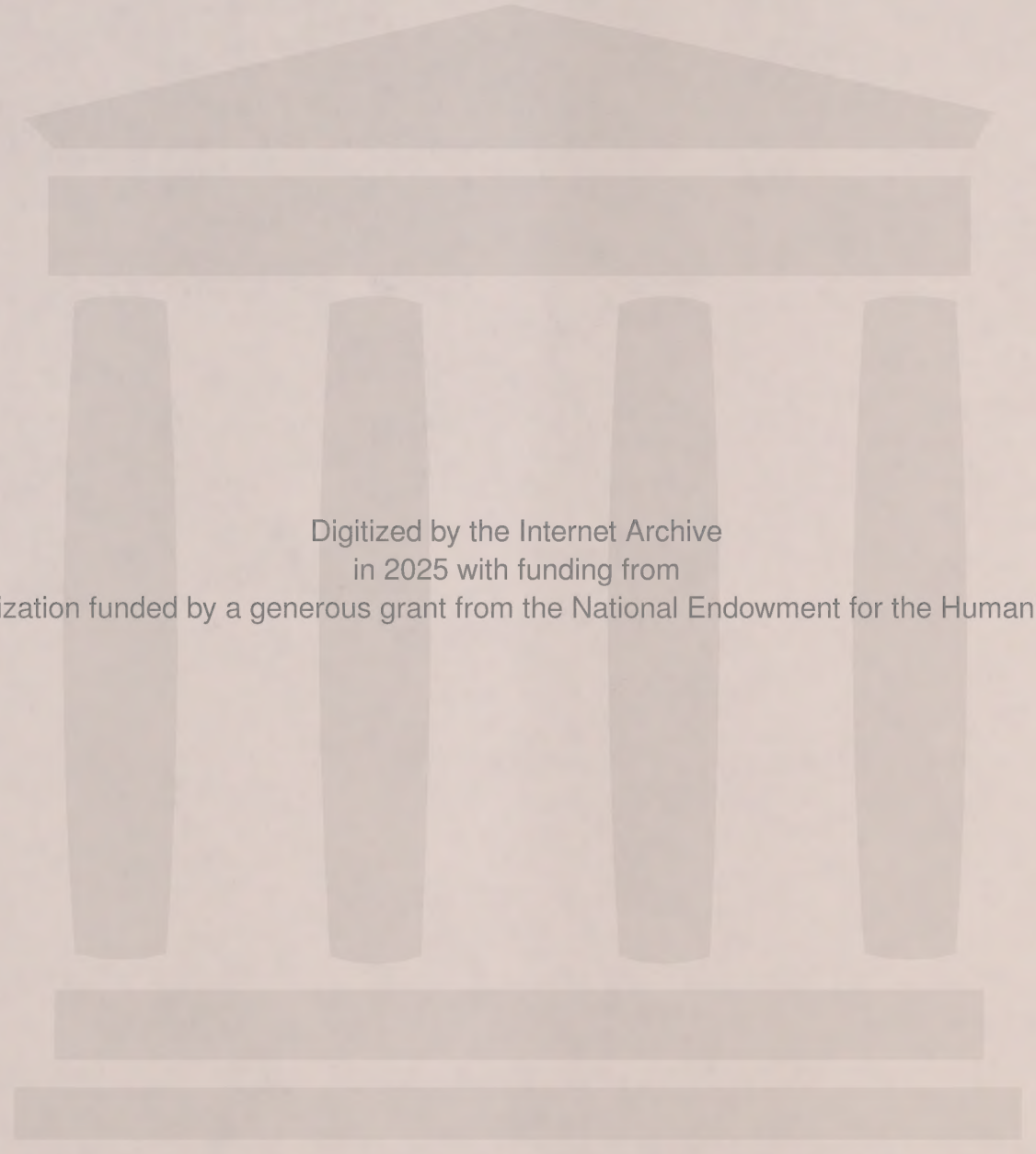
On Behalf of the Federal Defendants:

DAVID WHITE, ESQ.
DENNIS HOFFMAN, ESQ.

On Behalf of District of Columbia Defendants:

LAURA BONN, ESQ.
GEORGE BARCLAY, ESQ.

Official Reporter: Bruce W. Herzfeld



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that time?

A. I was a historian and a political scientist doing research at a private research center called the Institute for Policy Studies.

Q. Could you just describe generally what the Institute for Policy Studies was?

A. It was an independent research center in Washington that did research on problems of public policy, on race relations, on urban problems, on American foreign policy and problems of war and peace, on problems of education, et cetera, and tried to understand, do analysis of what was going on in American society and to come up with solutions for problems.

Q. What was your educational background? What is your educational background?

A. I was -- I did my undergraduate training at the Johns Hopkins University in Baltimore, and I took a doctorate in United States history at the University of Wisconsin.

Q. Now, in the period of 1964 to 1973 were you involved in any community or political activities in addition to your work?

A. Yes.

Q. Could you just describe very generally what some of the major activities you were involved in were?

A. During that period I was very much involved in

opposition to the war the United States Government was carrying on in Vietnam. I was working on questions of race relations both in the District of Columbia and in the country, generally.

I lived in Adams Morgan, and my children were going to schools in Adams Morgan, and I was very much involved in neighborhood questions in Adams Morgan and sort of generally in the District and neighborhood and school questions.

I was working on urban issues aside from race relations issues or urban issues, the quality of urban life, and I was involved in electoral political work.

I worked at the Atlantic City Convention of the Democratic Party. I worked there with a number of people in Congress who I used to work with on Capitol Hill for a Congressman. I worked with him and other people there, and with people from the Mississippi Freedom Democratic Party, and with Dr. Martin Luther King on the question of the seating of the Mississippi Freedom Democratic Party at the Democratic Convention.

Then in 1968 -- and I kept working in Democratic Party work at that time. And then in 1968 I was elected as an alternate delegate from the District of Columbia on the Robert Kennedy ticket, to be an alternate delegate at the Democratic National Convention.

Q. Did you in connection with your work in the District of Columbia around this time become acquainted with Tina Hobson?

A. Yes.

Q. Abe Bloom?

A. Yes.

Q. Sammy Abbott?

A. Yes.

Q. Did you ever do any work with the Washington Peace Center?

A. I spoke at meetings that they sponsored.

Q. Did you ever participate in any activities with the Women's Strike for Peace?

A. I met with some people and took part in some demonstrations and meetings that they sponsored.

Q. Did you, yourself, as an individual speak on the question of the United States' involvement in the war in Vietnam?

A. Yes.

Q. Was this as an individual or as a representative of the Institute For Policy Studies?

A. The Institute had no institutional position on public policy issues. The Institute -- it was like a miniature university or college. People in it were doing research and public speaking, and writing, and so on issues.

But the Institute had no institutional position. Individuals did their work there. So I wasn't as a representative of the Institute. I was doing work as an individual scholar at the Institute on questions of the war. I was also speaking and acting on questions of the war and other questions as a private person.

Q. And were you active in a group called the Washington Mobilization Committee to End the War in Vietnam?

A. Yes.

Q. Were you active later in another group called the New Mobilization Committee to End the War in Vietnam?

A. Yes.

Q. When did you first begin to speak out and participate in activities in opposition to the war?

A. In February 1965, a week after President Johnson began the bombing, the massive bombing of North Vietnam. I spoke at a conference, a model U. N. General Assembly meeting. I was asked to speak as if I were the Secretary General of the U. N. It was held at the University of North Carolina in Chapel Hill. I think that was the first public speech I gave about the war. I spoke at the first teach-in at the University of Michigan in April 1965 a couple of months after that. I spoke at the national teach-in that was held in Washington, where it was televised around the country about a month or two after the Ann Arbor

teach-in. That would have been May or June 1965. Those were the earliest.

In addition to that, I was meeting with people in 1962, '63, and '64 when the American involvement in Vietnam was smaller, but was already growing considerably. I was meeting with people in smaller groups privately and in small things. But the biggest -- the first big public speeches I gave were those in 1965.

Q. Thank you.

Mr. Waskow, I'm going to show you a stack of documents. Could you take a minute and look at those documents so that you can tell us whether or not you recognize those documents.

A. Yes, I do.

Q. And can you identify them, please.

A. They are a file of materials about me that were in the possession of the FBI and were turned over to me and the other Plaintiffs in this case.

Q. Could you estimate for the record about how high that stack of documents is?

A. Well, I think one of these sheets is about 14 inches high, so I guess it's about a foot high.

Q. Thank you.

Have you reviewed those documents?

A. Yes, I have.

Q. From reviewing those documents do you know what the earliest date is, according to these documents, that you became a subject of FBI interest?

A. It seems to me 1962.

Q. And what were you doing in 1962 that came to the attention of the FBI?

A. Well, there were two things. I spoke at a meeting that was held in Barbara Bicks' house, a private house, of the Washington Committee on Foreign Policy Alternatives, I think it was called. I spoke -- I had written a couple of books about the dangers of thermonuclear war and military strategy problems. They asked me to speak there, and my speaking at that meeting is on that list. There's a memo about my speaking at that meeting.

Q. How large a meeting was that?

A. My memory is that it was about 20 people. It was a living room type meeting.

The other thing that's there in 1962 is I was still working then on my doctoral dissertation, which was about a series of race riots that had been in the United States in 1919. And I had done research in the National Archives on what the Federal Government's records about the riots were. And it was clear that the FBI had very important records on the riots which were not available to scholars. So I wrote a letter to J. Edgar Hoover, the

then Director of the FBI, asking for permission as a scholar to do research in the FBI's records, and my letter to him and his letter back saying that the FBI would not give permission to scholars to do research on those records, those two letters are in the file, also.

THE COURT: I think that is irrelevant. I will ask the jury to disregard that.

MS. PILSBURY: Fine, Your Honor.

BY MS. PILSBURY:

Q. In addition to your activities in opposition to the war in Vietnam, were you involved in other activities that were noted in these files as well?

A. Yes, dozens.

Q. Now, directing your attention first just to your antiwar activities, in addition to speaking and writing about the war in Vietnam, did your political activities in reference to the war take any other form?

A. I'm not sure I understand.

Q. Did you participate in any demonstrations?

A. Oh, yes.

Q. And did you engage in any sort of civil disobedience or any sort of violent confrontations with the police?

A. No.

Q. Do you have a position on that sort of activity?

A. Well, I -- yes, I do.

Q. What is your position?

A. I am totally opposed to the use of violence in trying to bring about political change. My view about the war and questions of civil disobedience was and is that the war itself was a violation of American law. The war was a crime. The war violated the Constitution and it violated specific American --

MS. BONN: I would like to object, Your Honor.

THE COURT: Yes, that objection is sustained.

MS. BONN: It's not relevant.

MS. PILSBURY: Your Honor, I'm not sure exactly what the objection is to. The question or --

THE COURT: The objection is to the relevance of his views on the law.

MS. PILSBURY: We're not -- we're just simply trying to lay the foundation for the basis for his activities. We're not trying to argue the legal issue here.

THE COURT: Ladies and gentlemen, do you understand that this is just an exposition of Mr. Waskow's attitudes which he presumably is going to demonstrate or express? To that extent, the testimony will be received.

MS. PILSBURY: Thank you, Your Honor.

THE WITNESS: So I didn't view activities against the war as long as they were not violent -- I didn't view

them as civil disobedience because civil disobedience in my mind is disobeying the law for a good moral end. I mean, for instance, abolitionists who got people out of slavery were violating the Constitutional law --

MR. WHITE: Your Honor, --

THE COURT: The objection is sustained.

I don't want that kind of wandering off into irrelevant subjects.

MS. PILSBURY: Okay. Thank you, Your Honor.

BY MS. PILSBURY:

Q. Did you ever engage in any actions that might be termed civil disobedience?

THE COURT: Why don't you come to the bench.

(At the bench.)

THE COURT: That kind of testimony in this environment could be very prejudicial and inflammatory. To reach back into the 1950's to find some racial problem to bring before this jury -- I don't know what you're doing or not doing, but you won't do that. One thing I don't want in my courtroom are appeals to racial prejudice one way or the other.

MS. PILSBURY: We certainly don't, either, Your Honor. The only thing is this particular witness comes out of an academic civil rights background, and it's very hard to jump in and explain.

THE COURT: You are his lawyer, and I am the Judge, and he will be embarrased if you do this kind of thing. You go ahead and continue the questioning.

(Before the jury.)

BY MS. PILSBURY:

Q. Mr. Waskow, directing your attention to your activities in regard to the antiwar movement, did you engage in any activities that could be called civil disobedience?

MR. WHITE: I object to the form of the question, Your Honor. It could be called phrasing --

THE COURT: Why don't you ask him what he did.

MS. PILSBURY: Well, all right. That's fine.

BY MS. PILSBURY:

Q. Could you describe the full range of activities that you participated in?

A. Okay. I guess -- there were several occasions on which I took part in demonstrations in which I was arrested. On practically all those occasions the charges were dismissed. The charges were usually disorderly conduct for some kind of assembly, for instance, near the White House, and the courts later ruled that the police were incorrect in having made the arrests; that we had a right to assemble at the White House.

MS. BONN: I'm going to object, Your Honor.

A. I testified -- after the murder of Dr. King and the uprisings or riots in the city during that time, I was involved with the --

THE COURT: The question is whether you testified.

THE WITNESS: Yes, I did testify.

THE COURT: Then answer that question and then you ask another question.

THE WITNESS: Okay.

MR. WHITE: Your Honor, could we have a time frame?

THE COURT: Well, he told you when it was.

BY MS. PILSBURY:

Q. 1968?

A. Yes, I testified before the City Council.

Q. And what was the subject matter of your testimony?

A. It was how to go about rebuilding the burnt out areas of the District of Columbia.

Q. And is this testimony noted in your FBI file?

A. Yes, it is.

Q. Were you also active in an organization called the National Coalition For New Politics?

A. Yes. That was before 1968.

Q. When was that; do you recall?

A. That was from 1965 to 1967.

Q. And could you just describe very briefly what that

National Moratorium Committee, which called for demonstrations and speeches, and so on in October or September -- in October of 1969.

Q. Did you participate in planning these events?

A. Yes.

Q. Now, directing your attention to the November 1969 -- or, excuse me, first, just chronologically, did you participate in planning the Vietnam Moratorium Day activities in October '69?

A. Locally I was very much involved and nationally I was somewhat involved in the planning.

Q. Did you contribute financially to those activities?

A. Yes.

Q. Do you remember when you first became active with the New Mobilization Committee?

A. I think late in 1968 when the discussions were going on about the -- what to do on Nixon's innaugural day. I was involved in those discussions. So I think I was on the steering committee at that point.

Q. How large a group was the steering committee?

A. At meetings there were about 50 people, usually.

Q. Were its meetings generally considered open to the public?

A. No, not at all.

Q. What kind of meetings were they? What sort of

things went on at the steering committee meetings?

A. For instance, that meeting in 1968, there was a considerable debate about whether there should be some kind of presence actually along the line of the innaugural parade -- which I opposed -- whether there should only be some kind of separate thing somewhere else in the city which presented a picture of the antiwar movement and what it was about and why it was -- which is what I supported. There was a debate, and the meetings -- they debated questions like that, and then if they were planning a march or a rally, those meetings would choose the speakers and those meetings would decide what the line of march or rally was going to be, et cetera.

Q. Would it be correct to say that those were work sessions?

A. Oh, yes. Yes.

Q. Are there reports on steering committee meetings that you attended in your FBI file?

A. Yes, there are.

Q. Now, directing your attention to your activity in regard to the New Mobilization Committee planning the November '69 demonstration, do you recall any discussions in the summer of 1969 about the desirability of involving the local D. C. community in that demonstration?

A. Yes.

Q. What was the nature of those discussions?

A. There was a meeting called in a house near Dupont Circle in which a number of the people who lived in Washington who were on the steering committee of the Mobilization Committee were asked to meet with people who were coming as representatives of the Black United Front.

Q. Who called the meeting, if you know? Was it initiated by the New Mobe or Black United Front?

A. My memory is that it was initiated by the Black United Front calling the Mobilization.

Q. Were you at that meeting?

A. Yes.

Q. Do you recall the month?

A. No.

Q. Okay. About how many people were at that meeting?

A. About a dozen.

Q. What happened at that meeting?

A. Well, at that meeting there were three people who came saying that they were from the Black United Front and that they were --

Q. Excuse me. Do you recall who the three people were?

A. The Reverend Douglas Moore was one of them. I don't remember who the other two -- I think there were two others -- I don't remember who the two others were.

Q. Please go on.

A. They said that they have been very concerned that very big demonstrations by the antiwar movement were bringing problems on the black community of D. C., and that to deal with that and to make it at least somewhat possible to deal with that, they thought that the Mobilization ought to ask those people who attended the big demonstrations to contribute a dollar per person to support the black community, I guess specifically to go to the Black United Front. Then there was a considerable discussion of that proposal.

Q. Was that proposal discussed at the meeting that night?

A. There was some discussion of it. Most -- not -- there was some asking questions to get clearer what the proposal was. I don't think the people from the Mobilization tried to discuss it among themselves at that meeting.

Q. Did they later discuss it among themselves?

A. Yes.

Q. Were you present at other discussions and meetings about this idea?

A. Yes.

Q. How was the suggestion received within the New Mobilization Committee?

A. The majority of people in the New Mobilization

Committee thought it was a bad idea. I had -- I leaned toward the idea. And it made a great deal of problems and tension within the New Mobilization Committee. I was at a meeting later in Philadelphia where that proposal -- in fact, I was the Washingtonian who was made responsible to present the proposal, and I did, and it related to a very tense discussion at the meeting, and I remember having the -- other people in the Mobilization being very cool toward me for a considerable time afterwards because I tended to support the idea.

Q. When you say you were the one that had to represent the idea at the Philadelphia meeting, --

A. Yeah.

Q. -- what was that a meeting of?

A. Well, it was a meeting of the executive committee or the steering committee of the Mobilization. It was being held in Philadelphia.

Q. Is that a nationwide group?

A. Yes.

Q. Did the steering committee deal with this idea on more than one occasion?

A. Yes.

Q. Do you recall over what period of time this idea was discussed?

A. I think about three months.

Q. Do you recall if at any time the request or the demand for money was reduced to writing?

A. Yes. Yes.

Q. Do you recall in what form it appeared?

A. There was a letter which seemed to be sent from the Black United Front which changed the proposal very considerably, both the tone, and made it an ultimatum instead of a proposal and changed the amount of money, and changed the time and the way it was supposed to be paid. It -- the ultimatum was basically that the money or $25,000 should be paid up front ahead of anything else having happened. That was very different from the original suggestion.

Q. After the meeting near Dupont Circle at which Reverend Moore and two others presented this idea, did you ever meet with Reverend Moore again, either yourself or in a group on that idea?

A. Oh, no. I met with him one or another times, but I don't remember ever meeting with him again about this idea.

Q. And did he present you with a letter at the initial meeting?

Q. No.

Q. Did you at that time have any reason to believe that the letter that you subsequently saw came from anyone

other than Reverend Moore?

A. No.

Q. Was it signed by him?

A. Yes, I think so.

Q. Was it in the form of a letter?

A. Yes, that's right.

Q. Did you have any knowledge at this period that we're talking about, 1969, of FBI surveillance of your activities or activities of the New Mobe?

A. No.

Q. How did this issue resolve itself, if it did?

A. The Mobilization Committee voted not to agree to the proposal or the demand, whatever it was, and the march was held, and that was that.

Q. Was there ever subsequent to this any activities that the New Mobilization Committee or any other peace groups that you were involved in sponsored jointly with the Black United Front?

A. I don't remember any.

MR. WHITE: Your Honor, I have to object to the form of the question in that she said other demonstrations, suggesting that this one was co-sponsored by the Black United Front .

MS. PILSBURY: I'm sorry. I'll rephrase the question, Your Honor.

THE COURT: Rephrase the question. Thank you, Mr. White.

BY MS. PILSBURY:

Q. Were there any demonstrations that you were aware of that were ever co-sponsored by the Black United Front and the New Mobilization or any other peace groups in Washington, D. C.?

A. I can't recall any.

Q. Now, in reference to your -- excuse me, strike that.

Did you attend the November 1969 demonstration?

A. Yes.

Q. Did you participate in any way other than as a demonstrator on the actual day of the march?

A. I was involved in some meetings immediately before on the executive committee, but on the day of the march I was just a marcher.

Q. Were you there during the whole day?

A. Yes.

Q. Was it a peaceful demonstration?

A. Yes.

Q. Do you have any idea how many people were there?

A. I think it was about 400,000 people.

Q. Now, in reviewing your FBI file did you find any indication that mail addressed to you had been received by

the FBI?

A. Yes.

Q. Were these letters to you or from you?

A. Both to me and from me.

Q. Were these personal letters or business letters?

A. They were both personal letters and business letters.

Q. Did you see any indication in your FBI file that checks which had been written to you were reviewed by the FBI?

A. Yes.

Q. What was the nature of the checks?

A. Salary checks that were being paid to me by the Institute For Policy Studies. There were lists of how much the salary was, et cetera. There were also checks that had been sent to me, and I had written and paid for the printing of a Jewish religious service called the Freedom Seder. It took the Passover service and intertwined it with some modern quotations from Dr. Martin Luther King and some modern poets and so on. And I had paid to -- I had written this and taken the traditional Passover service as the basis and then paid to print it and sent notices around the country, classified ads and so on, that this was available for people to use, and people sent checks to me to pay for buying those things. And some of

those checks were taken as well.

Q. What was that document called?

A. It was called the Freedom Seder.

Q. And how --

A. A seder is a Jewish Passover service.

Q. And how do you know that some of those checks were taken?

A. There were references in the file and there were people who had told me that they sent orders and checks, and I had never gotten them to send them.

Q. Were your activities in the preparation of the Freedom Seder and other religious activities of yours noted in your file?

A. Yes.

Q. Now, at the time that these letters were written and these checks were noted, were you aware at that time that the FBI had access to these documents?

A. No.

Q. Did there subsequently come a time when you became aware that the FBI had these documents?

A. Yes.

Q. When was that?

A. When I saw the file.

Q. Had you -- was that after this lawsuit was filed?

A. Yes.

THE COURT: Why don't you ask him when that was instead of telling him. When was that?

BY MS. PILSBURY:

Q. Do you remember the date when that was?

A. It's been so long since we began the filing of the lawsuit, I don't remember exactly when it was. It was after the lawsuit was filed.

Q. Did you have any indication prior to filing the lawsuit that you were under surveillance by the FBI or the D. C. Police?

Q. Yes. That's why we filed -- that's why I filed.

Q. And what were those indications or what was that indication?

A. In the fall of 1973 there were some public statements which were covered in various newspapers in the District by a man named Robert Merrit who said he had been hired by the Police Department of the District and by the FBI to go to -- well, to infiltrate the Institute For Policy Studies, who said that he had gone to both private and public seminars at the Institute and who said he had taken material from the Institute. And that was the first -- at least the first I can recall now -- that I knew -- that I had any evidence of the FBI involvement in --

Q. Had Robert Merrit spoken to you personally prior to the time that those articles appeared in the press?

A. Yes.

Q. About how much prior to the time?

A. About 18 months, maybe, before that.

Q. And what had he told you at that time?

A. He said that he had been asked by the Metropolitan Police Department to infiltrate the Institute and to take materials from the Institute.

Q. Was he more specific in terms of materials or did he just say materials?

A. I think he mentioned the Freedom Seder then.

Q. And what steps, if any, did you take to find out whether or not what he was telling you was correct?

A. Well, the step I took as well as other people at the Institute was to say to him that if he was serious about it, that he should make an affidavit -- that he should get his own lawyer, he should make an affidavit, and he should publicly say what he was telling us. We didn't know whether to believe him or not. He was --

Q. Did you have any reason to doubt his credibility?

A. Yes.

Q. Why?

A. His whole demeanor and his story would change from one time to another time. There were several times he talked to us. His story would change. And the main reason not to believe him was that when we said to him

The thing to do if your story is true -- the thing to do with it is to make an affidavit and to say it publicly and not to keep coming to us. There is no point to that. He didn't do it, and so we were not at all sure whether to believe him.

Q. Do you know if any efforts were made to determine from the District Police Department whether or not he was working for them?

A. I think the -- one of the --

THE COURT: I don't want to know what he thinks. Does he know?

BY MS. PILSBURY:

Q. Do you know? Did you yourself ever call the District of Columbia Police Department?

A. No.

Q. Do you know whether your co-workers at the Institute Did?

A. The Co-Director of the Institute, Marcus Raskin, did call the District Police.

Q. Did the District Government initially corroborate Mr. Merrit'sstory?

MS. BONN: I would object --

THE COURT: Sustained, sustained. That is hearsay. Go on to something else.

BY MS. PILSBURY:

Q. Did you have any other indications, Mr. Waskow, that you were under surveillance other than Mr. Merrit conversations with you?

A. Well, there was a very peculiar event back in 1969 or late 1968 in which a friend of mine showed me a card, sort of a placard with about seven or eight photographs of my -- one was of me. Another was of David Dellinger, who was a leader of the Mobilization -- I can't remember who else, but they were all people who were leaders of the Mobilization Committee, and told me that that placard had been given to an officer in the Metropolitan Police Department in order to keep an eye out for leaders of the Mobilization at the Counterinnaugural demonstration on January 20th, 1969.

Q. And what did you make of this information at the time?

A. I was totally baffled, and person who gave it to me said he had to have it back in order to give it back to the person he got it from, so I gave it back to him, period.

Q. Did you have any sense of the purpose as to why you might be under surveillance?

A. No.

MS. PILSBURY: Your Honor, I think if we're going to break at 10:15, this would be an appropriate time in terms of the questioning to stop.

THE COURT: All right.

Ladies and gentlemen, we're going to have an early recess. You may step down, Mr. Waskow, and cross-examination will be after the recess. We will have an early recess this morning. Return at 10:30.

(Jury left the courtroom.)

MS. BONN: What time are we going to return?

THE COURT: We will reconvene at 10:30.

(Whereupon, a brief recess was taken.)

AFTER RECESS

(10:30 a.m.)

(Jury not present.)

MS. PILSBURY: Just for the Court's information, I hadn't quite finished direct.

THE COURT: Very well.

Bring back the jury. Mr. Waskow, you can resume the stand.

(Jury present.)

Whereupon,

ARTHUR WASKOW,

the witness at the time of recess, resumed the stand and testified further as follows:

DIRECT EXAMINATION (continued)

BY MS. PILSBURY:

Q Mr. Waskow, does your FBI file contain in addition

to letters and checks any other documents that appear to come from your office?

A. There were a number of interoffice memos between me and other fellow faculty of the Institute, seminars that we were planning, research projects we were planning, proposals to foundations that were in the file.

Q. Are these documents which would have normally been available to the public in any means that you can think of?

A. No.

Q. Were there also -- were there any documents in your own handwriting?

A. Yes.

Q. What sort of documents?

A. There were drafts of pieces of books, or pieces of articles, or pieces of public statements about specific issues, but they were drafts and that is why they were in my own handwriting.

Q. And what normally happens to those sort of drafts in your office?

A. Well, they would normally have been typed by a secretary and given back to me to check against the typed version and then the typed version would have been -- the final version would have been sent to whatever it was, and the handwritten one would have been thrown away.

Q. Were there any other items taken from your office

or that appear to have been taken from your office?

A. A typewriter ribbon was taken from the office.

Q. How do you know --

MR. WHITE: Your Honor, I object to that. It draws a conclusion. The question was not whether anything was, in fact, taken from the office.

THE WITNESS: All right --

THE COURT: Just a moment, Mr. Waskow.

THE WITNESS: Sorry.

THE COURT: Reframe the question.

BY MS. PILSBURY:

Q. My question was in the alternative, and I would pose it as follows: whether there was any indication from his FBI file that anything appeared to have been taken from his office.

A. According to the file, a typewriter ribbon was taken from the office.

THE COURT: Typewriter what?

THE WITNESS: Ribbon.

BY MS. PILSBURY:

Q. How do you know that? What, if anything, did the file indicate?

A. The file lists and the file reports to a special agent that certain materials had been taken from the office and were available to the FBI.

Q. Was this a fresh typewriter ribbon or a used typewriter ribbon?

A. A used one.

Q. And what reference is made to the typewriter ribbon in your file that you can recall?

A. The reference is that the Metropolitan Police Department had gotten this ribbon and turned it over to the -- was turning it over to the FBI.

Q. Was there any indication of what had been typed on the ribbon?

A. There was no description of what had been typed on the ribbon.

Q. Is there any other reference in your file to the Metropolitan Police Department?

A. Well, there are references scattered in a number of places. The major ones I remember were about the fact that material taken from the Institute had been taken by the Metropolitan Police Department and was being made available by the Metropolitan Police Department to the FBI.

Q. Does your file indicate whether or not you were ever overheard by any electronic surveillance?

A. Yes, it does.

Q. Did there come a time when you learned whether or not you were listed on an index called the Security Index?

A. Yes.

Q. When was that?

A. When I saw the file after this case was brought.

Q. And do you recall whether your file indicated that you were listed on this Security Index?

A. In 1969.

Q. And are you familiar with the FBI's criteria for -- excuse me. Does the Security Index contain categories according to your file?

A. Yes, there are lists of priorities.

Q. And do you recall what your priority was?

A. Priority 1.

Q. Do you recall if the FBI had criteria for listing people on the Security Index?

A. Yeah, on general I don't --

THE COURT: The question is whether you are familiar, that's all.

BY MS. PILSBURY:

Q. Do you recall specifically what the criteria are?

A. I would need to look at the document to see the specifics, remember the specifics.

Q. Okay, I'm going to show you a document marked as Plaintiff's Exhibit 80 and ask you to look at that and see if that refreshes your memory.

A. Yes, it does.

Q. Okay. Can you indicate for the jury what the criteria are for listing people as priority 1 on the Security Index, according to the FBI?

A. Basics of subversive organizations, leaders of anarchist groups, individuals who have shown the greatest propensity for violence, those with special training in sabotage, espionage and guerilla war, et cetera, subversives in key defense facilities.

Q. Now, Mr. Waskow, let me ask you a couple of questions about that. Were you at this time working in a defense facility?

A. No.

Q. Did IPS have any defense contracts?

A. IPS had no government contracts at all.

Q. Have you ever had any training in sabotage?

A. No.

Q. Espionage?

A. No.

Q. Or guerilla warfare?

A. No.

Q. Were you a member of any organization that you feel could be characterized as an anarchistic group?

A. No.

Q. Or a subversive organization?

A. No.

Q. Do you know from looking at FBI documents what the purpose of the Security Index was?

A. I remember very vividly. It says the idea was to lop off the leaders who were listed on it, and then it goes on to explain that if the Attorney General decided, that the people in priority 1 or maybe the whole Security Index would be rounded up and detained without criminal charges or anything, but just detained by the Government.

Q. Okay. Do you recall whether you were on the Security Index in any years other than 1969?

A. In 1970 -- I don't -- I think it went on to '71, at least. I don't remember when not.

Q. Now, in general, what effect, if any, do you feel that the FBI and/or the D. C. Government's interest in your activities has had on your political and personal life?

A. Well, there were a number of occasions when it made serious problems. The tension, for instance, that was caused by that whole business between the Black United Front and Mobilization made it difficult to impossible -- I think impossible -- for the peace groups to work at all with organizations in the black community in D. C. at least, maybe other places. And inside the Mobilization as I guess I mentioned, there was, I felt, a lot of tension directed toward me because I tended to support the original Black United Front proposal. And there was

a lot of tension and suspicion as to why I supported that. There was a kind of a sense inside the Institute once -- there was a sense that we needed to be very careful about talking to each other even, even with telephones around, and so on, without anybody else there, and very careful in talking in seminars, not to talk about proposals that we were developing. And it made it very difficult, much more difficult for us to work out a research proposal or work out a proposal to a foundation once it became apparent that there might be FBI people or police people involved either in the seminars or in actually taking the draft proposals. It was the pressure. I mean, when you're writing a book or trying to write an article, and you're doing a draft, and you write it out, and you expect you know that it's going to get typed and et cetera -- it is also a pressure to know that, you know, when you are experimenting with a way of writing, with an idea, et cetera, it's a pressure to know that somebody else, especially a police agent or police agency, is reading the first drafts of your ideas and putting them away in a file somewhere. So that was a real problem in terms of doing research and in terms of writing and working with other people at the Institute. And I continued doing -- I mentioned the Freedom Seder and what that is based on, and I continued doing religious work and the rest from 1971 and 1972 on.

At the end of cross-examination before he steps down, let's huddle, and I will consider an instruction.

MR. WHITE: On this --

THE COURT: On this point.

MS. PILSBURY: Can I finish the question and have him identify the time we are talking about?

THE COURT: Yes, that would be helpful for the cross-examination. You come back to me at that time.

(Before the jury.)

BY MS. PILSBURY:

Q. Mr. Waskow, when we stopped, I believe you were describing an activity which you refer to as Fabrangen. Could you just indicate in time when you became involved in that?

A. The beginning of 1971 when it was founded and continuing until now.

Q. Okay. And -- had you finished your answer?

A. No.

Q. Go ahead, please.

A. I was very much involved in Adams Morgan Community Council and other -- and the Adams and Morgan school activities. And the FBI went to a number of neighbors of mine asking questions about the work, the political work that my wife and I were doing against the war. And some of the neighbors came to us and told us, and it was again noticeably cooler. It was a lot harder to do the

demonstrating or while present at the Pentagon, is that correct?

A. I was leafletting. It was not what you call demonstrating. I was leafletting people, handing out leaflets in the Pentagon shopping area.

Q. These leaflets pertained to your -- they pertained to a position that you held regarding the war or some other issue?

A. That's correct.

Q. All right.

Were you arrested on that occasion?

A. That's correct.

Q. What were the circumstances of the arrest?

A. The circumstances were the police officers ordered myself and other people to stop handing out leaflets, and I said that it was our Constitutional right to hand out the leaflets and I refused to stop handing out the leaflets, and the officers arrested me.

Q. What happened to you then immediately?

A. I was arrested and taken to some place in Virginia to be arraigned.

Q. Isn't it correct that they had to remove you from the premises in a wheelchair?

A. Oh, that's right. Not had to, no, not had to. It is correct that that's what they did.

Q. There were also occasions, were there not, that you were arrested near the Soviet Embassy, is that correct?

A. That's correct.

Q. And what were the circumstances of those arrests?

A. I think one -- not arrests -- I believe one -- oh, no, I'm sorry, there were two different arrests, right. In 1969, a day in Jewish tradition called Tisha b'Ab, a memorial of the destruction of the temple, I with a number of other people went to visit the Soviet Embassy to protest against the Russian government's treatment of Soviet Jews. We were told to leave. I called a police officer. I handed in through the front door a set of placards and statements that we had about their treatment of Soviet Jews and then began to leave under the direction of the police officer. The police officer then arrested me. I asked him for what he was arresting me, and he said he didn't know, but I should stay there. And he turned me over to another officer and he went into the Embassy, and he came out and said he had decided I was being arrested for littering in a public place by handing those leaflets inside the Embassy. So that was the circumtances of that arrest.

Q. And the second one, the second arrest?

A. The second one was on the last day of Chanukah in 1970. The Soviets had just had the Leningrad trial and

sentenced a number of Soviet Jews to death. And a number of us on the last day of Chanukah went to the Embassy to light Chanukah candles outside the embassy and to do a religious service there. We were ordered by the police to disperse and we began to disperse, and then one of the police officers said, "Where are you going? You're under arrest." We were already moving away under police orders. 13 of us were arrested and those charges were later dismissed on the grounds that we were dispersing as ordered by the police.

Q. Now, was there also another occasion in which you were arrested during an activity near the Selective Service Building in Washington?

A. Yes.

Q. And would you describe for the Court and the jury the activities that you were engaging in at that time?

A. This was in February or March of 1970. There had been demonstrations and a rally at the Selective Service Headquarters Building a couple of days before that, I think, or maybe the day before and -- probably the day before -- and the morning of that next day I and a couple of other people bought a 79 cent, something like that, pet padlock and chain and put it around the front door of the -- on the front door of the Selective Service Headquarters.

Q. So you chained the front door of the Selective

passed them out to one or more persons in those classes?

A. I don't recall doing that.

Q. You don't recall doing that?

Are you familiar with the case of the Institute of Policy Studies against John Mitchell?

A. I'm familiar with its existence. I had not read the materials in the case.

Q. In connection with that case you did not read, then, the deposition of Mr. John Reeves?

A. I don't think I've read any of the depositions in that case.

Q. You have heard of Mr. Reeves, though?

A. Yes.

Q. And he attended some or many of the prison reform project meetings or classes?

A. That is correct. He did.

Q. Now, regarding the Black United Front, and the controversy, I believe, would be an accurate word regarding the Black United Front's demands for money from the National Mobilization Committee meeting, you testified that you attended the meeting where that demand first arose, is that correct?

A. It seemed to be the first time it arose, at least as put to the Mobilization, yes.

Q. That was a meeting that was called by the Black

United Front; that is, they requested that the persons from the National Mobilization Committee come and speak to them?

A. So I understood. The call did not come to me, so I don't know exactly how it was set up. But my memory is that I was called by someone in the Mobilization who said, as I recall, the Black United Front wants to meet with the Mobilization to talk about the relationship between the Mobilization and the black community of D. C., would you come to that meeting, and I said yes.

Q. And you testified that the Reverend Douglas Moore was present there. Do you have any recollection as to who the other two persons from the Black United Front were?

A. No.

Q. One of them would not have been Mr. Reginald Booker?

A. I don't remember.

Q. You don't? Do you know Mr. Booker?

A. Yes.

Q. But you don't recall whether he was or was not at that meeting?

A. No. I think I -- I met him, you know, to know who he was considerably later. It might have been him and I just didn't make the connection or it might not have been. I don't know.

Q. Now, you testified that you tended to support the idea -- I believe that was the word you used -- regarding the so-called head tax, is that correct?

A. That's correct.

Q. And you tended to support it for how long?

A. The meeting of the Mobilization executive committee that was held in Philadelphia -- at least -- as I recall, at least that long. I don't remember -- I don't remember beyond that. I was not at the meeting where the final decision was made.

Q. Now, the original meeting, do you recall what month that was in? Do you recall whether it was in August or September of '69?

A. I don't recall when it was.

Q. And you tended to support this idea even in the face of the opposition of the persons you were working with and dealing with in the National Mobilization Committee, is that correct?

A. Up until the Philadelphia meeting, yes.

Q. Were there other persons who tended to agree with you that the idea was a good idea in the National Mobilization Committee?

A. I don't recall. I remember I was very lonely, but I don't remember whether I was literally alone or not.

Q. Do you recall why you tended to support the idea?

A. As originally proposed, I mean, the idea of asking people who came to contribute a dollar to the support of the Black United Front, I thought that there were real problems that were made for the black community when very large numbers of people came to Washington for demonstrations. And if it were a business of asking voluntarily for people to contribute a dollar, I thought that might help deal with the problems that were created when large numbers of people came. That was the reason I thought it might be a good idea.

Q. Now, you spoke a few moments ago about the case of the Institute For Policy Studies against John Mitchell. Do you know when that action was filed, when they actually commenced that suit?

A. I believe that was early in 1974.

Q. And do you recall that the basis for the -- well, were you requested -- was there any discussion as to whether you would be a plaintiff at that time in that suit?

A. No, there was not.

Q. That discussion arose later?

A. Yes.

Q. And there came a time, did there not, in which you were, in fact, permitted to come in as a Plaintiff?

A. No. There came a time when it was -- when my name was proposed to be added to the plaintiffs. At that

point the other plaintiffs had already agreed that -- this is my memory of what the discussion was. I'm not --

Q. Well, let me give you a leading question to bring it to an end. Isn't it true that you declined to participate in the IPS case because you didn't want to give up your right to a trial before jury on the issues involved?

A. That's correct.

Q. Now, did you ever have occasion to read the complaint that was filed in that case in 1974?

A. I don't think so.

Q. Did you have occasion ever to read the complaint as it existed at the time you were under consideration to come into the case as a plaintiff?

A. I don't believe so. I believe the complaint was sort of vaguely and generally described to me by one of the lawyers.

Q. Would that have been Mr. Mitchell Rogovin, perhaps?

A. No, it wasn't. I think --

Q. Or Mr. McCoy?

A. No, he might have been a former lawyer in the case, but I only worked with -- in fact, I'm not sure he's a lawyer -- Robert Borosov. I remember him describing the case to me, but I didn't see the complaint.

Q. Were you aware of the fact that the complaint

itself filed in 1974 was based largely on allegations that had been made to you and others by Earl Robert Merrit about whom you've earlier testified?

A. I knew that that was an element in it. I don't know what you mean by largely, and I don't know how much was made up of what; but I know that Mr. Merrit's allegations were a piece of it.

Q. The plaintiffs in that case included the Institute, isn't that correct? It also included some individuals; do you recall those?

A. That's right.

Q. Mr. Marcus Raskin, Ralph Stabins, --

A. Yes.

Q. -- and Richard Barnett, is that correct?

A. I don't remember. I know Stabins and Raskin, but I don't remember if Barnett was or not.

Q. Those three individuals were all associates of yours at the Institute For Policy Studies?

A. That's right. Two of them were Co-Directors of the Institute, my bosses, in effect.

Q. Are you aware or does the term "trash cover" mean anything to you?

A. Yes.

Q. And what would your definition of a trash cover be?

A. Well, as I understand it, it's an arrangement by the police force that it takes the trash, literally the trash cans and so on, bags of trash that come from a given address and instead of sending them to the dump, looks at them and reads them, whatever, or copies them. I don't know.

Q. Now, regarding your testimony earlier about drafts of materials which you later found in your files, when you testified about the handling of papers, your testimony was -- I believe I'm correct -- wasn't it your testimony that you would prepare handwritten drafts of material and throw them in the trash, and at some time later when you were examining these files, you found copies of your handwritten drafts of materials, things that you'd thrown in the trash?

A. No. You added "things that were thrown in the trash." I said I had seen copies of materials, handwritten materials. In fact, the physical appearance in the file of those materials doesn't look at all as if they were thrown in the trash.

Q. Well, it would be possible, would it not, to take a dirty piece of paper and run it through a Xerox machine and get a clean, nice, fresh copy, would it not?

A. No, not -- I have done that after I've mistakenly crumpled up a piece of paper and thrown it in the trash, and I had to Xerox it, and it comes out looking like a mess. And the things that I saw in the file did not

come out looking like a mess at all.

Q. Based upon your examination of -- strike that.

You were not aware that in the IPS case there were depositions taken indicating that materials were obtained by the FBI pursuant to a trash cover of trash that had been thrown away by the Institute For Policy Studies? You're not aware of any of that testimony?

A. I remember some discussion about the trash cover on the Institute. I don't know whether -- I don't know -- I -- to answer your question, I don't know how much or what of a basis that was for the IPS complaint.

Q. That wasn't my question. I was just asking whether you were aware of the testimony in that case regarding the matter of the trash cover which was conducted.

A. No, I was not aware of the testimony in that case. I did not study the testimony in that case.

Q. Then you're not aware that that trash cover was done by an agent by the name of Robert Foyer?

A. No.

Q. Are you aware that Mr. Foyer was at one time a defendant in this case?

A. No, I don't remember his name.

Q. Then you would not also be aware of the fact that your attorneys agree to dismiss him from the case?

MS. PILSBURY: Objection, Your Honor.

THE COURT: Sustained.

BY MR. WHITE:

Q. Mr. Waskow, you testified that you had these files go -- you testified that you've had these files for several years now -- three years; would that be approximately correct?

A. Well, it depends on what you mean by I had them. They have been in the possession of the Plaintiffs and the attorneys, yes.

Q. And you've testified in some detail about some of the documents that are in this file?

A. That's correct.

Q. Now, in your examination of them and in your attorney's examination of them, anything they might have shown to you that maybe you didn't catch, did you see any document in there with the name of Gerald T. Pangburn -- Gerald W. Pangburn, I'm sorry -- Gerald T. Grimaldi, George Moore, Courtland Jones or Charles Brennan?

A. I don't recall.

Q. But you can recall in detail what the documents are about?

A. Some of them, certainly.

Q. And we have a trial going on now in which those five individuals are being subjected to a possible liability, money liability in connection with your testimony, based

on your testimony.

MS. PILSBURY: Is that a question?

MR. WHITE: I'll withdraw the question, Your Honor, and I apologize to the Court.

THE COURT: Yes, that is argumentative. The jury will disregard it. The jury will hear it later.

BY MR. WHITE:

Q. Now, Mr. Waskow, you testified that in 1973 there were newspaper articles relating to Earl Robert Merrit and his activities, is that correct?

A. Yes.

Q. And you also testified that prior to that time, something on the order of 18 months, you had spoken to Mr. Merrit about his activities. He revealed to you he had been acting on behalf of the Metropolitan Police Department?

A. So he claimed.

Q. And did he also claim to be acting on behalf of the Federal Bureau of Investigation?

A. I don't think so.

Q. Now, you testified that you doubted his credibility when he first told you that?

A. Yes.

Q. Mr. Waskow, do you recall being in my office in November of 1978 for the purposes of a deposition in this case?

A. Yes.

Q. And do you recall at that time that I asked you a number of questions relating to this case and also relating to Mr. Merrit?

A. Yes.

MR. WHITE: I'd like to direct the Court's attention to page 47 of Mr. Waskow's deposition starting at approximately line 15 and continuing onto the next page.

BY MR. WHITE:

Q. Mr. Waskow, I'd like to show you a transcript of the deposition. You'll notice about line 15, starting there, I asked you a question regarding Mr. Merrit. Do you see the question?

A. Yes.

Q. The question was, "Regarding the break-ins then surrounding Merrit, described by Merrit or alleged by him, do you recall ever missing papers that perhaps were on the desk or mail that you expected to see which never showed up or what?"

Would you read your answer that you gave at that time, please?

A. What I said was --

THE COURT: Read it out loud?

MR. WHITE: Yes.

THE COURT: All right.

MS. PILSBURY: Objection, Your Honor. There hasn't been any foundation laid.

THE COURT: This is impeachment. Go ahead.

BY MR. WHITE:

Q. Would you please read your answer to the jury, please.

A. I said, "Yes, yes. In fact, when Merrit said he had taken mail, he specified mail which I knew was missing which I'm almost certain I had never talked about with anybody else and, therefore, I was really convinced that what he was saying was the truth. He described having taken orders for a book called the Freedom Seder, a Passover Hagadah which I had written, and I recall those orders having disappeared and being very puzzled. But there didn't seem to be anything that I could do about the orders having disappeared. So I -- you know, it was irrelevant to talk to anybody else about it. So that was one sort of allegation of Robert Merrit's that pretty well convinced me that what he was saying was true because there was no other way he would have known about that."

Q. Thank you, Mr. Waskow.

So is it true, then, in 1978 your testimony was that you believed Mr. Merrit and now, three years later, you do not believe Mr. Merrit? Is that your testimony?

1970 and 1971, is that correct?

A. Yes.

Q. I believe you testified, Mr. Waskow, that you had knowledge that you received from your FBI files that you were the subject of electronic surveillance from the FBI?

A. Yes.

Q. Do you have any actual knowledge that you were the subject of electronic surveillance as a result of Metropolitan Police Department activities?

A. I don't recall right now whether the file indicates that those --

THE COURT: If you don't recall --

BY MS. BONN:

Q. Directing your attention to the incident that you stated where a friend of yours or someone you knew showed you a placard which contained seven to eight photographs; do you recall that testimony?

A. Yes.

Q. When was that? When did that incident occur?

A. Around the time of the first Nixon innaugurals, so either late in 1968 or early in 1969.

Q. When you speak of a placard, are you talking about a poster board or what?

A. No. It was abcut the size of -- what's this -- 8 1/2 by 13 or 14 -- sort of cardboard with a number of

photographs sort of inserted on it or pasted on it, like that.

Q. Now, when you say photographs, were these pictures of you on that piece of paper?

A. There was one photograph of me and a number of photographs of other people.

Q. Do you recall who any of the other people were?

A. Just one. David Dellinger was one of them. I don't remember who else.

Q. And were these copies of photographs like a regular picture or were they copies of a picture? Do you understand my question?

A. You mean like a Xerox copy of a picture as against --

Q. Yes.

A. No, they were photographs.

Q. Had you ever seen these photographs before?

A. I don't know. If you -- I didn't recognize them, but I didn't know.

Q. Did your picture ever appear in any of the leaflets or newspapers in the city at that time?

A. Not leaflets. I imagine it appeared in --

THE COURT: Don't imagine.

THE WITNESS: -- the Washington --

THE COURT: Did it?

A. I'm trying to -- I don't have any specific recollection of whether it appeared in a Washington newspaper or not.

Q. Do you know where the photograph that was shown on the placard came from?

A. No.

MS. BONN: Begging the Court's indulgence for a moment. Thank you, Your Honor.

BY MS. BONN:

Q. Mr. Waskow, directing your attention to the years of 1971 and 1972, do you recall ever speaking to a gentleman by the name of Robert Wall?

A. I remember speaking to Robert Wall. I don't know what the dates were.

Q. Did you know at that time who Robert Wall was?

A. Well, he said he had been a special agent for the FBI who had -- I'm not sure. I was going to say who had by that time resigned from the FBI, but I'm not sure of that part.

Q. Do you recall speaking with Robert Wall about the Institute For Policy Studies?

A. Yes.

Q. Do you recall ever reading an article written by Robert Wall about the Institute For Policy Studies?

A. An article written by him?

Q. Yes.

A. I don't recall.

Q. Do you recall reading an article either written by him or with respect to him connected with Robert Wall on the Institute for Policy Studies?

A. I don't remember when or where, but I remember reading articles about him.

Q. Could it have been in the years 1971 or 1972?

A. It could have been. I don't remember.

Q. Would it have been more probably 1971 or 1972 than 1978 or 1980?

A. Oh, yeah.

Q. Do you recall reading an article that concerned this issue of the head tax that involved Robert Wall?

A. Yes.

Q. Do you recall when you read that article?

A. No.

Q. Again, would it have been more probably in the years 1971 and 1972 than in the latter years?

A. Well, I know it wasn't -- you said the latter years; you mean 1979 or '80?

Q. Yes.

A. I know it wasn't 1979 or '80 and it is imaginable it would have been in the earlier years.

Q. Well, would it have been as late as 1974 or 1975?

before you became Mayor?

A. Self-employed as a graphic designer.

Q. And did you have an office?

A. Yes.

Q. Where was your office located?

A. 1346 Connecticut Avenue in the Dupont Circle Building.

Q. Are you a Plaintiff in this lawsuit?

A. Yes, I am.

Q. Now, directing your attention to the time period 1964 to 1973, could you explain in general terms what sort of political or community activities you were involved in in that time period?

A. It coincided -- those dates you gave me coincide with my involvement on a daily basis with the fight against the freeway system in Maryland and in the District of Columbia.

Q. Had you been politically active prior to this period?

A. I don't know what you mean by politically active.

Q. Was the freeway issue the first thing that you ever became involved in of this nature?

A. I had opposed the fallout shelter campaign, the nuclear bomb, matters of that nature.

Q. Okay.

A. I was involved in education and campaigns against discrimination in D. C. department stores. I was a member of the 1872 committee which brought about the victorious Thompson Restaurant decision in the Supreme Court, which ended discrimination in places of public accommodations. So I was active all my life in matters similar to that.

Q. Okay.

Okay, now, could you just describe briefly what the issues were in the freeway controversy?

A. The freeway controversy started around 1963 with a plan to extend the Wisconsin Avenue freeway to the Beltway into Silver Spring, Takoma Park, Lamont Briggs, Brookland area, and totalled outside the District of Columbia some 28.5 miles of eight and ten lane ditches which would carve up the District of Columbia and evict over 25,000 families in one sector alone, the north leg.

Q. At this time did the city have a subway system?

A. No. The city had plans, but no subway system.

Q. Can you in your mind pick a year which was the beginning of the freeway controversy?

A. I would say 1963 when the plans were announced by the Maryland Highway Department.

Q. When the plans were first announced for this freeway system, did the District of Columbia have a mayor and a city council?

A. No, they had the three person commissioner or three commissioner form of government.

Q. Now, did there come a time in this period when the Mayor and City Council came into existence?

A. They had the appointed officials -- you mean the appointed Mayor and Council?

Q. Yes.

A. Yes.

Q. Do you recall approximately when that was?

A. I think in the mid-sixties.

Q. Now, could you describe, please, for the Court and the jury what form your opposition to the freeway proposal took.

A. The opposition took the form primarily of an educational campaign, publicizing it at every opportunity.

Q. Now, how would you do that?

A. Through leaflets, through meetings, through door-to-door, through associations primarily of the civic associations in the different neighborhoods.

Q. Did there come a time when you organized a group to fight the freeways?

A. Yes.

Q. What was it called?

A. The Emergency Committee on the Transportation Crisis.

Q. And is that sometimes referred to as ECTC?

A. Those are the initials.

Q. Okay. Are there any other Plaintiffs in this lawsuit who were active in ECTC?

A. Mr. Reginald Booker was.

Q. Okay. Now, what sort of activities did ECTC engage in?

A. We were the action coordinating committee of organizations that were fighting the freeway system, the proposed freeway system, and we fought for the adoption of a public transportation system which resulted in Metro. Our slogan was "Freeways, no; subway, yes."

Q. What kind of people or -- was ECTC made up of individuals or groups or both?

A. It was not a membership organization. There were no dues. There were representatives of civic associations. In the District of Columbia, for instance, there were 56 neighborhood federation groups, which was primarily black. Then they had the thirty-so organizations called the Citizens' Association, which was made up of white citizens in Georgetown, in the centers around Dupont Circle, Cleveland Park. And what we did was to unify all of them in the common struggle to keep these unwanted freeways out of the District of Columbia.

Q. Were both the civic and the citizen associations

represented in ECTC?

A. Yes, they were.

Q. Did you have a position in ECTC?

A. I was the publicity director from the inception.

Q. Was that a paid position?

A. No, it was not. There were no paid officers.

Q. About how much time on an average would you devote to ECTC matters in the period 1964 to, say, 1970?

A. It all depended upon what was on the agenda in the way of a public hearing, in the way of briefings, et cetera, and it would vary. Sometimes my entire working day would be devoted to that. On the main I figured yearly my working income was cut from a half to at least -- by a third.

Q. Did you continue to work during this period?

A. Yes, I did.

Q. Now, in the course of your opposition to the freeways, did you ever propose or engage in any sort of confrontation tactics with the police or any other authorities?

A. I don't understand what you mean by confrontation tactics. We never -- no.

Q. Okay. Did you ever propose or engage in the destruction of property?

A. No.

Q. Were you ever arrested in connection with your activities in ECTC?

A. Yes, I was.

Q. Could -- how many -- more than once?

A. Several times.

Q. Could you explain the circumstances surrounding those arrests?

A. One was at the Three Sisters Bridge site. It was the noon hour rally --

THE COURT: Is that a second thing?

MS. PILSBURY: No, Your Honor, I think that's the same instance.

THE COURT: All right.

BY MS. PILSBURY:

Q. Were you arrested there?

A. Yes, I was.

Q. What were you charged with, if you recall?

A. Disorderly conduct, I guess. I never knew.

Q. Do you recall the disposition of that?

A. I think there was a $10 fine.

Q. Was there another occasion when you were arrested?

A. At the unboarding of the houses on 10th Street, N.E. They had been confiscated by the city.

Q. Could you describe what happened there and what you were doing when you were arrested?

to something else.

BY MS. PILSBURY:

Q. Were there any other occasions where you were arrested, Mr. Abbott, in connection with ECTC activities?

A. In the City Council.

Q. And what was the charge there?

A. The charge was disorderly conduct.

Q. Okay. Now, directing your attention to the people that were active in ECTC at this time, did there come a time when you met an individual by the name of Harold Bynum?

A. Yes.

Q. And how did you come to know him?

A. I met him through Mr. Booker.

Q. And who was he as far as you knew at that time?

A. He explained to me that he was a recently discharged Vietnam war veteran, and he was chauffeuring Mr. Booker around. He was a guest at my house for supper on several occasions.

Q. Did he attend ECTC meetings?

A. Yes, he did.

Q. Did he attend -- were there both public and private ECTC meetings?

A. No. Everything was public.

Q. And I believe you indicated he -- did he ever go to your residence?

Q. Had he been participating in ECTC activities right up until the time you saw him in court?

A. I think that -- no, I hadn't seen him for several months.

Q. When he was active in ECTC, would he engage in discussions or were his activities limited to driving Mr. Booker around?

A. He never engaged in any of the discussions except at my house at supper.

Q. And would those be discussions about ECTC activities?

A. No, they were just conversations about what was happening. They were very volatile times. Before we ate, we'd look at the evening news. We were to go to a meeting at 8:00, and he would comment on the developments.

Q. Did he ever urge people within ECTC to commit unlawful acts or engage in provocative tactics that might lead to confrontations with the police?

A. I never heard him say anything except on one occasion in my house having supper with Mr. Booker and my family. His conversation seemed to be extremely -- I don't want to use the word radical, but it shocked me, because hitherto he hadn't said much.

Q. Did ECTC organize any public --

THE COURT: That answer has to be stricken. That

doesn't mean anything, that it shocked him. Go on to something else.

BY MS. PILSBURY:

Q. Okay, did ECTC ever organize any public demonstrations or rallies?

A. Many.

Q. And was one of these in Georgetown?

A. Yes.

Q. Do you recall the year?

A. 1969.

Q. Do you recall when in 1969?

A. November the 16th.

Q. Was that date chosen for any particular reason?

A. Yes, it was the day after the November 15th antiwar rally that was held in Washington.

Q. And why did you choose the day after the antiwar rally?

A. We had a student committee on the transportation crisis, and it was their idea that while people were here in Washington, that many of them could be educated on this question of urban freeways which were becoming a disruptive factor throughout the country in urban areas.

Q. And why was this particular site in Georgetown chosen for the demonstration?

A. The demonstration was on the Georgetown University

campus.

Q. Was there any significance to the fact that the demonstration was in Georgetown rather than another part of the city?

A. It was near the site of the proposed Three Sisters Bridge.

Q. Was that what the demonstration was about?

A. Yes, it was to educate not only the local people, but those that were here as to what an urban freeway does, the damage it does to neighborhoods and the -- that particular freeway which would have a devastating effect cutting the -- if I could amplify it --

Q. Where was the Three Sisters Bridge proposed?

A. It's near the Key Bridge, three little islands. It would be a bridge connecting Virginia to the District of Columbia. The proposed north leg of the inner loop would have cut --

THE COURT: All right, that's where it was. That's all we asked.

THE WITNESS: All right.

BY MS. PILSBURY:

Q. Was the demonstration at Georgetown planned as a peaceful demonstration?

A. Yes, it was.

Q. What steps had you taken to try to assure that

it would be a peaceful demonstration?

A. Developments that had occurred in the previous few days before, where we received word from black police officers that should the demonstrators go down to the site which was down on the Canal, that they would be tear gassed, and the purpose of the meeting that I explained to the audience was the issues to be defined. And I then counseled very vigorously against anyone going down to that site.

Q. Now, when was this meeting that you just spoke of?

A. This was on the 16th of November, 1969 in the daytime.

Q. Is this the same day --

A. Sunday.

Q. Is this the same day as the demonstration?

A. Yes.

Q. Was there a meeting before the demonstration or you were speaking at the demonstration?

A. The meeting was held on the Georgetown campus. There were a couple thousand there. Then the plans originally would be to march down to the site. But because of this information and knowing the potentialities of any disastrous occurrence, I tried to get the march called off.

Q. Now, what happened when you told the audience that you didn't think they should go down to the site?

A. Before I spoke, Mayor Berry -- I mean --

THE COURT: The question is what you said.

THE WITNESS: Okay.

THE COURT: What happened when you said that.

THE WITNESS: I spoke about provocation. I advised that the --

THE COURT: The question is what happened after you said that.

THE WITNESS: Well, I was speaking and I was interrupted by two individuals who called me all kind of names, "sell out artist, phony, coward".

BY MS. PILSBURY:

Q. Were those individuals urging people to go down to the site?

A. They subsequently did after they interrupted my speaking.

Q. And did people go down to the site?

A. About 200 of them did.

Q. What happened?

A. I left. I had my one year old granddaughter with me and my wife and I left. And as we left the area, we saw the tear gas clouds.

Q. And do you know if subsequently people were arrested down at the site?

A. There was a whole number of arrests emanating from

that attempt of the 200 who were led by these two individuals.

Q. Did the two individuals who interrupted your speech actually physically lead demonstrators down to the site?

A. As I left with my wife and granddaughter I saw them heading -- a group I figured about 200 -- down towards the bridge site.

Q. Had you ever seen these two individuals before --

A. No, I hadn't.

Q. -- at any of the activities?

A. No, I hadn't.

Q. Were they black or white?

A. They were white.

Q. How were they dressed?

A. They were dressed in the uniform of the period, which was old Army jackets. They had camouflage parachute scarves, and knapsacks on their backs.

Q. Did you ever learn the identity of these two individuals?

A. I did.

Q. Who did you find out they were?

A. I found out that one of them, based upon my description, was an officer of the D. C. Police force named Jan Francis.

Q. And when did you find that out?

A. I found it out, I guess, about -- the time hearings were held in the D. C. City Council by the then Chairman of the Public Safety Committee, Willie Hardy. The date escapes me. I think it was '75. The hearings were supposed to be on a bill that was investigating the activities of the so-called Red Squad and the SOD Police units.

Q. Was it in connection with those hearings that somebody identified Mr. Francis to you as a Metropolitan Police officer?

A. Yes.

Q. Prior to that time did you have any actual knowledge of who those two individuals were?

A. No.

Q. Were there any other major demonstrations or activities of ECTC after the demonstration at the Three Sisters Bridge or is this toward the end of the freeway controversy?

A. No, no. There were constant -- when you say demonstration, it's hard -- we were active as an organization up until the time that the D. C. City Council ruled no more freeway, no more gateways, outlawed the freeways.

Q. Do you recall when that was, approximately?

A. It was under Chairman Hechinger, so --

Q. Okay.

Now, during this same time period, 1964 to 1973, were you also active in any way in peace movement or antiwar activities in Washington, D. C.?

THE COURT: We'll adjourn here.

Ladies and gentlemen, we'll adjourn now for lunch to reconvene at 2:00 p.m.

(Whereupon, the jury left the courtroom.)

THE COURT: You may step down, Mr. Abbott.

(Whereupon, the luncheon recess was had.)

AFTERNOON SESSION

(2:00 p.m.)

(Jury not present.)

MS. PILSBURY: Should I have the witness back in the box, Your Honor?

THE COURT: Yes. Well, bring back the jury.

(Before the jury.)

MS. PILSBURY: We would recall Mr. Abbott to the stand.

THE COURT: You may resume the stand, Mr. Abbott.

Whereupon,

SAMMIE ABBOTT

the witness at the time of recess, resumed the stand and testified further as follows:

DIRECT EXAMINATION (continued)

BY MS. PILSBURY:

Q. Mr. Abbott, right before we stopped for lunch I think I had asked you whether you were involved in any way in the time period we have been speaking of, 1964 to 1973, in any antiwar activities?

A. Yes.

Q. And in this connection did you know Abe Bloom?

A. Yes.

Q. Did you participate in activities of the Committee for a Sane Nuclear Policy?

A. I did.

A. Did you participate in activities with a group called the Washington Mobilization Committee to End the War in Vietnam?

A. I did.

Q. And did you ever have occasion to go down to the offices of any of these groups located at 1029 Vermont Avenue?

A. A few times.

Q. Now, directing your attention to the summer of 1969, did you become engaged in any activities with a group planning an upcoming demonstration called the New Mobilization Committee to End the War in Vietnam?

A. Yes.

Q. And what did you do?

A. At that time I became extremely concerned with the emerging fact that black soldiers were being casualties, wounded and killed far in excess of other sectors of our armed forces. I was concerned that these demonstrations that were taking place in Washington begin to reflect the concern of all sections of the people, and for that purpose I, on my own, attempted to call together a group of black and white individuals who were active to discuss this matter, how to increase participation of the black citizens of Washington in these demonstrations which were taking place.

Q. What white individuals did you contact?

A. I contacted the people -- about two or three that I knew were in the Mobilization to End the War in Vietnam.

Q. And did you set up a meeting?

A. I did.

Q. And do you recall when that meeting was?

A. It was around the 20th of August. It was a daytime meeting.

Q. 1969?

A. 1969.

Q. And where was it held?

A. It was held at either 2005 or 2007 Massachusetts Avenue.

Q. And who was in attendance at the meeting in

addition -- well, first, did the people you contacted from the New Mobe come to the meeting?

A. Yes.

Q. And were you present?

A. Yes.

Q. And then what representatives of the black community were there, if you can recall?

A. Three members of the Emergency Committee on the Transportation Crisis, Reverend --

Q. Go ahead.

A. Reverend Joseph Gibson, John Carter, Charles Cassells, Mr. Douglas -- Reverend Douglas Moore, whom I invited, and he brought two other individuals with him whose names escape me now.

Q. Approximately how many people were at this meeting?

A. About a dozen.

Q. Was there anyone else there from the New Mobilization Committee in addition -- I'm sorry, maybe you haven't -- could you identify the people from the New Mobe that were there?

A. Mr. Bloom -- let me see -- a person from the national office of the New Mobilization Against the War in Vietnam, I don't know his name, Mr. Donald Gurewitz, who was a staff worker for the local peace group, a man who I

found out afterwards was named Stephen Wilcox, Mrs. Helen Gurewitz, and there might have been one other member of -- representing the peace groups.

Q. And what was discussed at this meeting?

A. The first thing was what could we do -- what could be done to -- there were no paid staff people. However, for the upcoming November --

THE COURT: The question is what was discussed at the meeting, Mr. Abbott.

THE WITNESS: Well, it was a question of adding to the staff in preparation for the November 15th demonstration.

BY MS. PILSBURY:

Q. Did anybody make a proposal at this meeting that the peace demonstrators should pay a tax to the local black community?

MR. WHITE: I think the question is leading.

THE COURT: I would think it sure is.

BY MS. PILSBURY:

Q. All right, Mr. Abbott, --

THE COURT: Just stop doing that.

MS. PILSBURY: I'm sorry, Your Honor.

BY MS. PILSBURY:

Q. What else was discussed at the meeting?

A. A proposal was made by Reverend Douglas Moore that

a dollar a head tax be asked for by -- asked for to be paid by people coming into Washington, D. C. to demonstrate their concern over the war.

Q. And was this idea discussed at that time at that meeting?

A. There was a discussion on it.

Q. Did people agree?

A. Very few agreed.

Q. Was it discussed later on, to your knowledge, or in addition to that original meeting?

A. I heard it was. I wasn't privy to any further discussions.

THE COURT: That's stricken. As far as he knows, it wasn't.

THE WITNESS: That's -- no.

BY MS. PILSBURY:

Q. At the meeting that you have been speaking of in August of 1969, did Reverend Moore present his idea at that time in the form of a letter?

A. I think he was reading something that -- I don't know whether he was reading, or from notes or from a letter. I saw no letter --

THE COURT: It was a question of whether there was a letter.

BY MS. PILSBURY:

Q. Did you see a letter?

A. No.

Q. Okay. I'm going to show you a document marked for identification as Plaintiff's Exhibit 17. I'll ask you to take a second and look at it.

To the best of your knowledge, is that letter -- could you identify the letter, who it's to and who it's from?

A. It's addressed to Mr. Abraham Bloom and it's signed -- I mean it's a typed signature, Reverend Moore.

Q. And what does it deal with?

A. It asks an initial contribution --

MR. WHITE: Your Honor, --

THE COURT: Just a moment. Does your witness have any knowledge of this?

MS. PILSBURY: Yes, Your Honor.

THE COURT: Ask him that first.

MS. PILSBURY: Could I approach the bench, Your Honor.

(At the bench.)

MS. PILSBURY: Your Honor, in order to prove that this letter was written by the FBI rather than the Reverend Moore it's essential for us to establish that it wasn't presented at this meeting.

THE COURT: When you show him the letter and ask

him to tell about what is in it, you have to first show that he knows something about the letter. Where did he see it?

MS. PILSBURY: I was leading up to that.

THE COURT: Do that first.

MS. PILSBURY: I wanted him to identify the documents --

THE COURT: You asked him to tell the jury what is in it before you connected him to it. You have done that several times. You have to first let me and the jury know that he knows something about the document. I don't care where he knows something about it, but you can't use witnesses to read things that they have never seen before.

(Before the jury.)

BY MS. PILSBURY:

Q. Mr. Abbott, in reference to the document that I have shown you, which is Plaintiff's Exhibit 17 already in evidence, have you seen this before just now?

A. No.

THE COURT: Well, that's your answer.

BY MS. PILSBURY:

Q. Did you take part in writing a letter to Mr. Bloom in reference to the proposal that was made at that meeting?

A. No.

Q. Now, what was the result of this suggestion that

was made at the meeting by Reverend Moore?

MR. WHITE: I object to that, Your Honor. He testified already that he did not participate in any discussions regarding the issue.

MS. PILSBURY: Your Honor, there are other results of the discussions, if he knows.

THE COURT: The objection is overruled.

BY MS. PILSBURY:

Q Do you have any knowledge of what happened to this suggestion after that meeting?

A. Although I supported---

THE COURT: You either do or don't.

THE WITNESS: No, I don't have any direct knowledge except what I read.

BY MS. PILSBURY:

Q. Do you know whether or not the money was paid?

A. I know it wasn't.

Q. Now, directing your attention to the time that we have been speaking of, 1964 to 1973, did you have any knowledge during that time to indicate to you that you were under surveillance by either the FBI or the D. C. Police?

A. I had a general feeling of it.

THE COURT: The question was knowledge.

THE WITNESS: Knowledge? Bollixed up phones.

BY MS. PILSBURY:

Q. Were you ever interviewed by any FBI agents during that period?

A. Several times, if you mean by interview use of the telephone.

Q. Would FBI agents call you on the telephone?

A. Yes.

Q. Would they identify themselves by name?

A. Yes.

Q. And did this happen on more than one occasion?

A. Yes.

Q. What was the nature of your discussion with them?

A. It was invariably the same. "Mr. Abbott, this is Philip Wilson of the FBI. Are you ready to talk to us?"

I'd say, "No," and hang up.

Q. Did Mr. Wilson ever communicate with you in any way besides telephone?

A. He accosted me on the street and visited my family and my mother --

MR. WHITE: I would move to strike the word accosted.

THE COURT: That's overruled. Go ahead.

THE WITNESS: He visited all my relatives and visited neighbors.

BY MS. PILSBURY:

Q. And do you know for how long a period -- in the

time period we're speaking of this went on, as far as you know?

A. Give me the dates again.

Q. 1964 to 1973.

A. Towards the latter part. I didn't see him except for occasional phone calls.

Q. Mr. Abbott, I'm going to show you a stack of documents here and ask you if you've ever seen those documents before. Take a second and took at them, if you would.

Do you recognize those documents?

A. Yes.

Q. Can you identify them?

A. They are the ones that I received under the Freedom of Information Act under this lawsuit.

Q. Mr. Abbott, those are two separate things. Did you receive these files under the Freedom of Information Act?

A. They were requested for me by the attorneys.

Q. In connection with this lawsuit?

A. Lawsuit, yes.

Q. Had you also made a request under the Freedom of Information Act for your files?

A. I was going to, but the cost was exorbitant for me.

Q. So were these files received in this lawsuit or through the Freedom of Information Act?

A. Through the lawsuit. It was handled through the attorneys at my request.

Q. And do these documents -- have you reviewed these documents?

A. I went over them. I -- much of it escapes me, especially the blank pages.

Q. Okay, on the pages that --

MS. BONN: I am going to object to that last comment.

THE COURT: Just a moment.

That is overruled. There is no reason to object to that. It's overruled.

BY MS. PILSBURY:

Q. On the pages that you can read, do these documents describe your political activities in this period, '63 to '74?

A. It's an attempt to describe it. I wouldn't say it describes it.

Q. Do the documents contain press clippings on your activities at that time?

A. A major share of it consists of press clippings.

Q. Do the documents also contain records of your personal checks that you wrote?

MS. PILSBURY: We are trying to show in their effort to curtail the Plaintiffs --

THE COURT: What?

MS. PILSBURY: In the Defendants' efforts to curtail the Plaintiffs' First Amendment rights, they cast a very broad net in order to get information about everything they could about their lives in order to use it.

THE COURT: You have established that.

MS. PILSBURY: I was finished with that line of questioning.

THE COURT: Why don't you leave that off and go to something else.

MS. PILSBURY: Okay.

(Before the jury.)

BY MS. PILSBURY:

Q. Mr. Abbott, is there an indication or a notation in your FBI files that indicates that you and Reginald Booker were engaged in a power struggle within ECTC?

A. I read that statement.

Q. Was that correct?

A. Not to my knowledge.

Q. And had you ever given the FBI -- excuse me -- or any other government agency or the bank permission to review your bank records?

A. No.

Q. Did you know at the time that we're speaking of, 1964 to 1973, of the purpose of the FBI's or any other government agency's surveillance of you?

A. No.

Q. Is there any indication in the documents you received as to whether or not your telephone conversations were overheard by electronic surveillance, if you know?

A. I don't know.

Q. Are you still active in political affairs?

A. Yes, I am.

Q. Of the same nature that you were active in during this period we've been talking of?

A. Yes.

MS. PILSBURY: Okay, thank you. I have no further questions.

THE COURT: Cross-examination?

CROSS EXAMINATION

BY MR. WHITE:

Q. Mr. Abbott, my name is David White, and I represent the five FBI agents that are the Defendants in this action. I have just a very few questions for you. You testified that on numerous occasions an agent by the name of Philip Wilson called you on the phone or encountered you on the street -- you used the word accosted. During what period of time did that occur, to the best of your recollection?

A. I know it happened during the period stated here, '63 and '73.

Q. '73.

A. Yes.

Q. But you testified that it got less and less during the latter part of that period?

A. Right.

Q. Was there a point at which it ended?

A. I don't know. I can't give you the definite date. I saw some mention in a file.

Q. It's been many years since that occurred though, has it not?

A. You mean -- this is 1982. Many years meaning what?

Q. Since the last occasion that Mr. Wilson contacted you either in person or by --

A. It hasn't been very recently because he has departed this earth.

Q. Do you recall when he died, sir?

A. No, I don't.

Q. Would you describe for us briefly, if you haven't done so already, the nature of the conversations that you would have with Mr. Wilson when he met you on the street. I think you did describe the telephone conversations, but when he met you -- well, either on the street or some other location where you met personally, what sorts of conversations

occurred?

A. They all had the same refrain. I would be approached as I was walking to a bus stop. He did all the talking. He would say, "Mr. Abbott, we know you're not a foreign agent. We want you to just join the N. A. A. C. P. and tell us what's happening."

Q. Now, to your knowledge, was Mr. Wilson in any way connected with any of the five -- other than the fact that they're all FBI agents -- was he in any way connected with any of the five Defendants in this case?

A. I'm not familiar with the hierarchy or table of organization of the FBI. I can't answer that.

Q. Thank you, sir.

Did Mr. Wilson ever explain why the FBI or why he was interested in talking to you other than -- if there was anything in addition to the request he gave to you?

A. He knew I was a patriotic American and I ought to help my country and report to them about what's happening in the N. A. A. C. P.

Q. I see.

You also mentioned that during this general time period, 1964 to '73, regarding your general feeling of surveillance that you used the phrase -- I think I've got this correctly -- bollixed phones?

A. Right.

Q What did you mean by that, sir?

A. Especially at Dupont Circle where my office was located on the 10th floor, I could pick up the phone and hear the conversations. I complained to the phone company many times and they sent people up there to check it out. And I once had an individual expert check my phone out, the phone below of present Councilman John Wilson of the District who was then head of the National Sharecroppers Union Fund on the 7th floor and the needles showed that both his phone and my phone and the phone of the Rural Housing Group on the fifth floor all were -- showed signs of being tapped.

Q. Do you recall the name of the person who checked the phones in that matter?

A. His name was Sal Ferrara or Sal Torre. He had two names. He was a graduate student at Georgetown University.

Q. Is it your recollection, sir, that this occurred around 1970 or 1971?

A. That occurred after the incident that I testified to earlier, November 16th, 1969. He came to my office later, checked my phones out, and then--so it was subsequent, yes.

Q. Well, I think I have my answer.

Sometime very soon after November 16, 1969 your

phones were checked in this manner by Mr. Ferrara --

A. Right.

Q. -- or Mr. Torre --

A. Right.

Q. -- whichever name you prefer to use.

Were there other things that occurred at that time or that you did which helped you to confirm your belief that your phones were being surveilled?

A. Yes. What I did do was not pay my bills. I went for six and seven months and the phone company never sent me a request to pay the bill. Then I read that Dick Gregory subsequently did the same thing. His phone went on for two years. They kept his phone going. That's number one.

Number two, I let the Washington area Peace Action Coalition which was on the 11th floor in the Dupont Circle Building use my phone. They used other phones in that building during the evenings to make their phone calls to mobilize support for the demonstrations. My phone went dead five days before that November 15th demonstration. The phone company claimed they couldn't fix it. My home phone went dead as well.

Q. Was there also an occasion in which you made a personal examination of your phone to find -- to see if there was anything unusual inside of it?

A. Yes. I was told what to do. I unscrewed one part

of the phone. There is a little aluminum cylinder in there. It can be used, I am told by a member of -- an employee of the Chesapeake Phone Company, that that could be used as a microphone to pick up any conversations. Most of the phones in Washington, D. C. do have that. The rationale for it was, he said, that it amplified, amplified the conversations, especially in busy office buildings. But it also could be used if activated as a microphone.

Q. And --

A. I unscrewed it, took it out, and my phone operated just as well.

Q. And you did this in approximately October of '69, is that correct?

A. Subsequent -- yes, subsequent to -- no, it was after the November 16th -- 15th peace demonstration.

Q. But it would have been very soon thereafter, within the next two or three months or at least within the next year?

A. I think somewheres, yes, in that era.

Q. Now, the things that you've just been describing to us, are they the reason that you brought suit in 1976 alleging electronic surveillance?

A. That's one of the reasons.

Q. Now Mr. Bloom, you described earlier this morning I guess it was --

who was accompanied by two persons whom you did not know. Were they there representing another organization?

A. They came with him as representatives of the group the Black United Front. I don't know if it was the official group or what. Not being a member of it, I didn't know.

Q. I understand, sir. And what was your personal position with regard to this dollar a person idea?

A. At that time after the assassination of Martin Luther King and the events that took place in Washington, D. C. and other major metropolitan areas, I supported enthusiastically the idea of contributions from enlightened white individuals and organizations to help strengthen the ability of such organizations like the Black United Front to put their message across, the message being to end the discrimination that's taking place in our society.

Q. Considering the way you phrased that, sir, did there come a time when you changed your mind about that idea, about the validity of it?

A. Several days afterwards, yes.

Q. Did you or have you ever heard of a person by the name of Robert Wall?

A. I heard about him. Never met him.

Q. Did you -- are you familiar with any articles that might have been written by or about Mr. Wall?

A. I am familiar with one article which appeared in two publications.

Q. And what publications were they?

A. The first was the New York Review of Books, and the other was two consecutive Sunday articles of, I think, April 5th and April 12th in the Washington Post Sunday section.

Q. Do you recall what year, sir?

A. Yes, 1972.

Q. And you read the articles at that time?

A. I read them very avidly.

MR. WHITE: That's all I have, Your Honor.

THE COURT: Thank you.

Cross-examination, Miss Bonn?

MS. BONN: Thank you, Your Honor.

CROSS EXAMINATION

BY MS. BONN:

Q. Mr. Abbott, I am Laura Bonn and represent the District of Columbia and the other District of Columbia Defendants.

Directing your attention to November 16, 1969, was that the day that the rally was scheduled to be held or the demonstration was scheduled to be held at the Three Sisters Bridge?

A. It was not scheduled to be held at the Three Sisters

Bridge.

Q. Excuse me. It was Scheduled to be held at the Georgetown University campus?

A. Yes, ma'am.

Q. Is that the correct date, Mr. Abbott?

A. Yes, it is.

Q. Had you been to the site prior to that day?

A. Of course.

Q. Was there equipment on that site?

A. Well, there were huge culverts -- I mean huge pipes, you know, maybe six feet in diameter.

Q. Construction equipment that would be used --

A. Yes.

Q. -- to build the bridge?

A. Yes.

Q. Was there any -- had any excavation actually begun on that site?

A. I think there was a trailer -- equipment at one point in the area.

Q. Were there any actual machines of any sort on the site?

A. I don't remember machines.

Q. And when did you receive the advance -- was it a telephone call that you received? You said you received advance warning from a Metropolitan Police Department officer?

A. It wasn't a telephone call. It was a member's -- in fact it was Mr. Booker, who had been approached by -- at that time they had an organization of black police officers, and they informed him that we should be very wary that particular day of going down to the site itself.

Q. You weren't present when they informed Mr. Booker, were you?

A. No, I wasn't.

Q. So you can't reliably say exactly what they told Mr. Booker, is that correct?

A. I have no -- I have had no reason to doubt Mr. Booker.

Q. Well, did Mr. Booker include in the warnings that the police officer -- that the police officers also told him that there was equipment on the site, and he wanted the demonstrators to be careful not to get near the equipment?

A. There was no equipment on the site. Subsequently after a trailer was burned --

Q. What about the big, large cylindrical columns or whatever -- you have referred to them. They were still on the site on November 16th, 1969, were they not?

A. Well, I don't think that inert pipes of that nature can be classified as machinery.

Q. Were the pipes on the scene, Mr. Abbott, on November 16th, 1969?

A. I don't know. I wasn't down at the site that day. I'm talking about --

Q. Thank you, Mr. Abbott.

I believe you testified that you were arrested at that -- on a noon demonstration at the Three Sisters Bridge?

A. Yes.

Q. Was this the same day?

A. No.

Q. What date was that?

A. Earlier, much earlier. I think it was in the summer. It was a warm day.

Q. And what were you charged with, Mr. Abbott?

A. I don't know. I think disorderly conduct. Those were the charges.

Q. So you know the charges. It was disorderly conduct --

A. I don't know the charge. I know it was -- I paid $10.

Q. Did you pay $10?

A. I didn't pay it. Somebody paid it. I never carried $10.

Q. Did you have any problem with that arrest or the reasons for the arrest and the charge of disorderly conduct?

A. Yes, I had. The disturbance -- it was a peaceful

meeting. We were exercising our First Amendment right of free speech and petitioning the District Government not to go through a project which was opposed by 97 percent of the District population.

Q. Did your -- excuse me. Are you finished?

A. No, no. And from the outskirts I was -- heard some stones. I looked and I saw stones coming over from the back of the embankment. And then that's when the police picked me up, and I think there were, I don't know, maybe a hundred and some people arrested that day.

Q. And someone paid $10 for your release?

A. Some friend of mine. I had no $10. I just -- I don't even remember going to the police station.

Q. Mr. Abbott, did you request a trial on the merits of that arrest?

A. No.

Q. You were arrested again at 10th and Lawrence Streets, N.W., were you not?

A. Yes.

Q. Excuse me, is that Northwest?

A. Northeast.

Q. Northeast, excuse me. And I believe you testified -- were you charged with disorderly conduct there?

A. I think I was charged with attempted break-in of a police vehicle.

Q. Did you request a trial on that case?

A. No.

Q. I believe you also testified that you were arrested at the City Council?

A. Yes.

Q. The hearings at the City Council?

A. Yes.

Q. What year was that, Mr. Abbott?

A. That was -- Gilbert Hann was then the appointed Chairman of the City Council and -- I don't know the date.

Q. Can you give me the year?

A. It was during the Nixon administration. I have a -- I brought a flyer that explains it with a date on it. Could I have it passed up here?

Q. Certainly. Would that refresh your recollection?

A. It has the exact date.

THE COURT: If he doesn't know, you don't have to elicit it unless you want to.

MS. BONN: I'd like the date of that City Council hearing.

THE COURT: All right, if he has something to refresh his memory.

BY MS. BONN:

Q. May I look at it a moment, please?

A. Sure.

THE COURT: Mark that for identification.

MS. BONN: Let the record reflect that I am having it marked for identification as D. C. Defendants' Exhibit No. 5.

(D. C. Defendants' Exhibit No. 5 was marked for identification.)

BY MS. BONN:

Q. Does that refresh your recollection?

A. Yes, it does.

Q. What was the date, Mr. Abbott, of that hearing?

A. August--Saturday, August the 19th, 1969.

Q. And is that the same City Council hearing where you testified that you saw a Mr. Jan Francis?

A. No.

Q. In August of 1969, was that the date that you were arrested for disorderly conduct?

A. Repeat the date?

Q. I believe it was August, 1969. I don't --

A. Are you talking about the leaflet that we just passed up here?

Q. Well, I'm trying to get from you the date that you were arrested at the D. C. City Council's office for disorderly conduct.

A. August the 19th, 1969 in the City Council Chambers along with a multitude of others.

to look at that and see if that refreshes your memory as to the date of the City Council hearings at which you learned the identity of Mr. Francis.

A. This sheet you gave me has nothing to do with that.

THE COURT: Do you have any other questions?

MS. PILSBURY: Your Honor, I'd like to direct his attention to the caption of the document.

THE WITNESS: Oh. I'm sorry.

BY MS. PILSBURY:

Q. Does that refresh your memory?

A. Yes, it does.

Q. What was the date?

A. Tuesday, July 15, 1975.

Q. Thank you.

Now, in reference to your suspicions that your phone was tapped, did you have any actual knowledge at the time prior to this lawsuit as to who was tapping your phone, if it was tapped?

A. I had no knowledge.

Q. Okay. Thank you.

MS. PILSBURY: I have no other questions, Your Honor.

RECROSS EXAMINATION

BY MR. WHITE:

Q. Mr. Abbott, you had no actual knowledge of who

was tapping your phone in 1969 or 1970, is that correct?

A. Correct.

Q. And in 1976 you had no actual knowledge of who was tapping your phone?

A. Correct.

MR. WHITE: I have no further questions. Thank you.

MS. BONN: I have none, Your Honor.

THE COURT: You're excused, Mr. Abbott.

THE WITNESS: Thank you.

(Witness excused.)

THE COURT: We'll take a 15 minute recess at this time. Excuse the jury. I would like to see counsel at the bench.

(Jury not present.)

(At the bench.)

THE COURT: Two housekeeping things that came to my attention before lunch; that the press was interested in getting copies of the exhibits and that -- of course, there were some exhibits that I hadn't permitted to be published to the jury. The exhibits that have been received in evidence are a matter of record. We have a Court of Appeals opinion that tells us we shouldn't seal things. I would be glad to hear your views on this. I am not anxious to have any articles in the paper because that

THE JURORS: No.

BY MS. McNEIL:

Q. If you could speak a little louder, please.

A. Okay.

Q. In what manner did you work towards the end of the war in Vietnam?

A. Well, we did a lot of lobbying on the Hill. We organized demonstrations, and we also worked with all the other peace groups and people coming into Washington as a support and we had petitions, and we developed educational materials, and we were working on antidraft activities.

Q. Directing your attention now to the period of 1969, could you tell me what the first large demonstration which WISP was involved in was in 1969?

A. I guess it was probably the Counterinaugural demonstration against -- that took place the same time that the Nixon inaugural took place.

Q. So would that be in January?

A. In January.

Q. Could you tell me a little something -- what was WISP -- what was WISP's role in the Counterinaugural?

A. Well, we did not organize that. It was a national kind of demonstration. And while the official inauguration was going on, there were --

was involved in in the period from 1964 to around 1969?

A. Our purpose was to educate the public about the dangers of radiation and nuclear war, to demonstrate --

Q. No, I'm sorry. I was asking about the activities that you engaged in in order to reach your goals.

THE COURT: Not what you thought, but what you did.

THE WITNESS: Yes. Okay. Well, the education was part of it. We did --

THE COURT: Tasks. Did education --

THE WITNESS: Intensive research and publication of books which have been used in universities --

THE COURT: I'm sorry --

THE WITNESS: I consider that a task.

THE COURT: Just a moment, ma'am.

Ask her what she did, tasks of work that she did.

MS. McNEIL: Yes, Your Honor.

BY MS. McNEIL:

Q. What tasks or work did you do in your capacity with WISP to gain the goals advocated and proposed by WISP?

A. Well, I participated in some of the research work that I have just described, and in publications that were issued. This was the beginning. We demonstrated --

THE COURT: I'm sorry, but you also are dictating to a reporter, and this has to be transcribed, so will you

please slow down.

THE WITNESS: I'm sorry.

Number one. Okay, number two, public demonstrations, that was part of our program. Lobbying in Congress. Working in conjunction with women in other countries who were also concerned about nuclear arms and disarmament. Those are, well, four that I can think of offhand.

BY MS. McNEIL:

Q. Did you ever travel outside of the United States in your capacity as a WISPER?

A. Yes.

Q. In 1967 where did you travel?

A. North Vietnam.

Q. Was the State Department aware of your traveling in North Vietnam?

A. Yes, I suppose so. I had to have a passport.

MR. WHITE: I'll object to the question as leading.

THE COURT: Yes, of course.

MS. McNEIL: I apologize.

THE COURT: If she doesn't know whether it was -- go ahead.

BY MS. McNEIL:

Q. When you came back from Vietnam, what happened?

A. I lost my passport. It was withdrawn. It was withheld from me.

Q. Are you a Plaintiff in this lawsuit?

A. Yes, I am.

Q. What's your present occupation?

A. I'm a senior minister at All Souls Church, Washington, D. C.

Q. How long have you been the senior minister at All Souls Church?

A. Since September of 1969.

Q. How long have you lived in Washington, D. C.?

A. Since 1932 when I was born except for a few times out of the city for graduate school education and one year in California in 1959 to 1960. With the exception of those times, I've been a resident here in the District.

Q. Directing your attention to the time period of 1964 to 1973, can you just describe in general terms what, if any, community and political activities you were involved in?

A. Let's see. I was a member of the Human Relations Commission for four of those years and one year I was the Chairman of the Human Rlations Commission. I was a founder and a convenor of the Black United Front. I was a founder and convenor of the Congress of African Peoples. I helped coordinate some of the activities concerning the march on Selma, and participated in that march in Selma. I was a member of the American Psychological Association, American

Counseling Association, and did a lot of work in schools and universities in that capacity. I was writing extensively for vocational education. I was the first Director and founder of the Opportunities Industrialization Center here in Washington, D. C.

Q. Thank you.

Did you have any participation in the Poor People's Campaign in Washington, D. C.?

A. Yes, I did.

Q. What was your connection with that?

A. My primary connection was assisting then Reverend Fauntroy now Congressman Fauntroy in setting up some of the logistics of the Poor People's Campaign. We worked two ways. One was was with -- I'm sorry.

Q. That's okay.

Do you recall when that was? Was that during this period that we described, '64 to '73?

A. Yes, that is correct.

Q. Were there any other activities you felt were major that we haven't touched on?

A. Let's see. The Black Panther Party held its constitutional convention at All Souls Church because -- well, they held their constitutional convention there. The Republic of New Africa held its constitutional convention at All Souls Church. Most of the persons involved

in the peace movement, both the Moratorium, Women's Strike For Peace, and other persons involved in the peace movement met at All Souls Church and used it as a staging area, and also used the church to practice crowd control so that things would stay in hand. We used the parapet of the church. And I was responsible for our congregation and our Board of Trustees in welcoming the peace demonstrators, both in the city and all around the country.

Q. Was your involvement with these groups and activities that you've just listed as an individual or was it as the minister of All Souls Church?

A. The activities associated with the peace movement was as the minister of All Souls Church. The activities associated with the Congress of African Peoples, the Black United Front, and some of the other groups would be as an individual citizen.

Q. Now, directing your attention to the Black United Front, do you recall when that group first came into existence?

A. It must have been around 1967 or '68, somewhere around there.

Q. And you indicated you were a convenor. Does that mean that you were there when it first came into existence?

A. Yes, I was.

Q. Could you describe what the original purpose of

the Black United Front was?

A. The original purpose of the Black United Front was to bring together the broad spectrum of Afro-Americans, of black people in this city. That was a period when there was a need for communication across the spectrum. A person like Stokely Carmichael oftentimes was alienated from the Urban League. And due to the problem that we were confronting during that particular period, many of us felt that there was a need to unite the black community, especially in terms of broad policies and in terms of communication.

Q. Did this continue to be the purpose of the Black United Front throughout the time that you were associated with it?

A. That is correct.

Q. Could you describe what some of the major issues were that the Black United Front was involved with in the period since its existence from 1967 until up to, say, the end of the sixties?

A. The two major issues that brought the Front together in terms of real issues, rather than the concept, was police brutality, which was quite high then in the black community, and the injection or the coming of narcotics into the black community. And we were concerned with both of those realities.

a manuscript.

Q. Have you -- I'm sorry, had you finished your answer?

A. No. That's what I recollect about the document. And it was so detailed, and exactly what I said, and it sounds so much like me, and I remember the meeting--and since I spoke from notes rather than from a manuscript, when I read it it made me believe that someone must have taped it rather than have access to anything that I had written out.

Q. Is the meeting to which you refer one at which you gave a talk or sermon?

A. Yes, that is correct.

Q. And is the contents of what you said in your file?

A. Yes, it is.

Q. Were you aware of FBI or Metropolitan Police Department surveillance at this time in 1966?

A. No, I was not.

Q. In your further review of the documents from the FBI, did you find reports on Steering Committee meetings of the Black United Front as well as the public meetings?

A. That is correct.

Q. Is there any indication from your review of your files as to the number of informants that were reporting on Black United Front activities to the FBI?

A. Approximately seven.

THE COURT: I'm sorry, I missed that. Seven what?

MS. PILSBURY: Seven different informants from the FBI.

BY MS. PILSBURY:

Q. And how were you able to determine that?

A. It was actually written up in the files. It stated that there were seven informants. I gleaned that from reading the file.

Q. Do you recall if there were any particular meetings that are reported on in your file by more than one informant?

A. Yes, I do recall at least two, but I can't remember what meetings they were. I think one meeting, they had something like four or five different people reporting on the same meeting.

Q. Can you recall the date of that meeting?

A. No, I cannot.

Q. I want to show you some documents from Plaintiffs' Exhibit 98. I'm going to show you some documents marked for identification as Plaintiffs' Exhibit 98-11 on the documents you have through 98-16. If you could just look at those documents for a minute and see if they refresh your recollection as to the date of the meeting that you are referring to and then tell me whether or not those document refresh your memory.

My question first is just as to the date, whether or not those documents refresh your memory as to the date of the meeting at which there appeared to be more than one informant.

A. Yes, they do.

Q. And with your memory refreshed, can you testify without reference to the document?

A. Yes, I can testify as to the substance of the meeting.

Q. Well, what was the date of the meeting?

A. This one is in 1969, January the 8th, 1969.

Q. And are there a number of reports there on that same meeting?

A. Yes, there are.

Q. Now, can you, having reviewed the documents, -- can you recall at this point what was discussed at that particular meeting?

A. The --

Q. First, just tell us if you can remember.

A. I can remember the meeting because there was a long discussion about Sterling Tucker, who was a member of the Black United Front and also one of the convenors, and he had missed three meetings in a row, and some of the members of the Black United Front wanted to dismiss him as a convenor since he had missed so many meetings. So there

was an interesting discussion around that. He was not dismissed, I recall, because as I said, the purpose was to keep a broad base of communication. So I remember that was a lively meeting.

Q. Can you remember what else was discussed at that particular meeting?

A. Not in any detail.

Q. Was it a typical Black United Front meeting?

A. Yes, it was.

Q. Now, I believe you indicated earlier that one of the issues that the Black United Front was interested in was the subject of narcotics. Was this discussed at any meetings?

A. Yes, it was. The -- yes, it was.

Q. Did you ever receive any response from people outside of the Black United Front on the subject of narcotics or the Black United Front's interest in it?

A. We began to. Yes, I did receive some correspondence.

Q. What sort of correspondence?

A. There was a letter sent to all the members of the Board of Convenors saying that if we did not stop our efforts to rid the community of narcotics, that all of us would be killed, with the possible exception of Reverend Eaton.

Q. And who was this letter signed by?

A. If I can recall, I don't remember a signature.

Q. Was it handwritten or typed?

A. I think it was typed.

Q. Do you recall where you received it?

A. I received it at my place of employment.

Q. Do you recall what that was at that time?

A. I think it was the OIC, Opportunities Industrialization Center.

Q. What effect, if any, did the receipt of this letter have on your activities and your relationships with the other people in the Black United Front?

A. Initially it was quite strained, especially since I was singled out as being the person that may not be killed. But that didn't last long. But it was a strained relation initially at the next meeting.

Q. Did everyone receive these letters more or less at the same time, as far as you're able to determine?

A. My understanding is they did.

Q. And did anyone in the Black United Front ever run afoul -- did anyone ever encounter any sort of physical problems with anybody?

A. None to my knwoledge.

Q. Did this sort of thing ever occur again?

A. No. In fact, they dropped the inquiry into narcotics.

Q. When you say "they", who are you referring to?

A. The Black United Front.

Q. Was that as a result of this letter?

A. I think it was a result of the letter plus persons became rather afraid. I think it was a direct result of the letter because a few meetings later we decided that there was some other things we ought to be looking into other than narcotics.

Q. Now, directing your attention to the fall of 1969, do you recall any discussion within the Black United Front about a proposal to charge a tax on peace demonstrators coming to the city?

A. Yes, I do.

Q. What do you remember about that discussion?

A. I remember Douglas Moore bringing the issue up, and there was a broad discussion on the issue. And either at that meeting or a subsequent meeting the Black United Front voted the issue down and categorically said no such thing would be done.

Q. How did you feel about the idea yourself?

A. I was one that helped vote it down.

Q. Was it discussed at more than one meeting?

A. To my knowledge, it was discussed at the initial meeting where it was brought up, and then it was discussed at another meeting. It was discussed, I know,

at an open meeting and also at a meeting of the Steering Committee.

Q. When Reverend Moore suggested the idea was a vote taken on it within the meeting at that time, if you recall?

A. No, it was not.

Q. Do you recall approximately when the decision was made that it was not a good idea?

A. It was at the second meeting because one of the points in the Black United Front at that particular time -- this may sound very strange, but it's true -- in order for a particular policy to be set forth and implemented it had to be by complete agreement of the Steering Committee. The reason that was the case was because the Steering Committee consisted of the broad spectrum that I talked about earlier in terms of the black community. So the Steering Committee could, in fact, veto any particular thing. That's why I went to some length to explain the purpose of the Front.

If the Steering Committee did not take a stand, then it would never be brought to a vote. I recall quite vividly because of my concern with the peace movement or the antiwar movement, as the case may be, and also persons like Congressman Fauntroy's concern with the peace movement and not to let that movement be fractured by racial dissention and so forth; that the Steering Committee

definitely voted down the proposal by Reverend Moore.

Q. Do you recall when that meeting was?

A. I can get the sequence, but not the date. It was within two weeks after it was proposed. So if somebody could refresh me on when it was proposed, it was approximately two weeks after it was proposed.

Q. Do you recall a large demonstration in November of 1969 in Washington?

A. Yes, I do.

Q. Was it prior to that?

A. It was certainly prior to that demonstration. That was the -- I'm sorry. It was prior to that demonstration.

Q. Now, did you participate yourself in any antiwar activities?

A. Yes, I did.

Q. Did you have a position personally on the form which the opposition to the war should take?

A. I'm sorry, could you repeat that?

Q. Did you have any position yourself on the form that opposition to the war should take?

A. Peaceful demonstration, legislation, lobbying, trying to convince Congress that this was an illegal activity that the country was engaged in, that type of thing.

Q. Did you participate in demonstrations yourself?

A. Yes, I did.

Q. And I believe you've already indicated that your church was used by a number of organizations?

A. That is correct.

Q. Was your church ever used to house demonstrators?

A. Yes, it was.

Q. How would that happen?

A. The Social Concerns Committee of our church fed many persons who came to Washington to demonstrate, and we had monitors throughout the building, and we would have people sleeping in sleeping bags in certain rooms in the building, and also we have a youth club there that has a basketball court. We had people sleeping on the basketball court and then we'd feed them in the morning. The building was primarily used during the morning for breakfast. The people would be out during the day and would come back in the afternoon. They would practice their marshaling type of activities, how to keep the crowd control, how to keep people's tempers calm, and that type of thing. That was rehearsed in the building, in Pierce Hall, and on the parapet that we have right outside of the minister's study.

Q. In connection with the November 1969 demonstration time period, what effect, if any, did the proposal from Reverend Moore that there be this tax have on the groups

involved?

A. Well, something that I didn't recognize until much later -- I thought that we had dealt with the issue by having the vote of the Steering Committee. Many of the persons from out of town met at All Souls Church in Pierce Hall. I was present. I don't recall if there were any of the members of the Black United Front present because I was hosting this meeting as the minister of the church. And for the first time I found out that many of these persons had received letters saying that they had to pay so much money in order to come to Washington, D. C., and it was signed by the Black United Front of Washington, D. C. And this set up somewhat of a cleavage. And we spent a lot of our time dealing with that particular issue. It amazed me that they received this letter. I later talked to Doug Moore to find out had he gone against the Steering Committee, and he said no, that he hadn't sent any letters out at all. So it took a lot of time to close that breach, really.

Q. Is there any indication in your FBI file or in any of the documents that you've seen in connection with this case to indicate whether or not you were overheard through electronic surveillance?

A. There is some -- I'm not sure. There are so many electronic surveillance -- that could mean -- I don't

know if you mean taping, or conversations, or telephone -- electronic surveillances are wide.

Q. Let me restate my question. Is there any indication from any of the documents that you've seen as to whether or not your telephone conversations were overheard by the FBI, if you know?

A. There's no indication, meaning that there's no statement in there saying that a tap was put on Reverend Eaton's phone. There's none there. There is an indication of - oh, I'm sorry, that was an interrogatory -- there was not an -- no, there is no indication.

Q. Is there any indication in your FBI file as to whether or not you were listed on something called the agitator index?

A. Yes, there is.

Q. Do you recall when you were listed on that index?

A. I don't recall. I think it was around 1968 or '69, I'm not sure. But I was really surprised to see that I was listed.

Q. Do you know what that index is?

A. I found out later -- and this came in a different way -- in doing some research, there was something called a King David procedure. This I knew of some years ago. It was a document that came out of the Nixon administration that had listed blacks throughout the

country where on a moment's notice they would be put in detention centers around the United States. It was called the King David. I later found out through asking knowledgeable people that persons listed on the index were, in fact, those persons --

MR. WHITE: This testimony sounds like hearsay, Your Honor.

MS. PILSBURY: I'll make it a more direct question, Your Honor.

THE COURT: Yes, please.

BY MS. PILSBURY:

Q. Rather than talk about what someone else might have told you, did you know, Mr. Eaton, -- I'm sorry, Reverend Eaton, -- prior to the time that you got your file in this litigation that you were listed on something called the agitator index?

A. No, I had no knowledge of that, whatsoever.

Q. Is there any indication in your FBI file that the FBI was receiving information about internal affairs in your church?

A. That is correct, it's listed.

Q. What sort of information did they receive?

A. It's listed in my file that an FBI informer was going to attempt to disrupt All Souls Church and embarrass Reverend Eaton and end this process. The informer thought

R. 265

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

JULIUS HOBSON, et al., :

Plaintiff, :

v. : CA No. 76-1326

JERRY WILSON, et al., :

Defendant. :

Vol. 3

Washington, D. C.

December 2, 1981

The above-entitled matter came on for trial before the HONORABLE LOUIS F. OBERDORFER, United States District Court Judge, in Courtroom No. 3.

APPEARANCES:

On Behalf of the Plaintiffs:

DANIEL M. SCHEMBER, ESQ.
J. E. McNEIL, ESQ.
ANNE PILSBURY, ESQ.

On Behalf of the Federal Defendants:

DAVID WHITE, ESQ.
DENNIS HOFFMAN, ESQ.

On Behalf of District of Columbia Defendants:

LAURA BONN, ESQ.
GEORGE BARCLAY, ESQ.

Official Reporter: Bruce W. Herzfeld

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I N D E X

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
Reverend David Eaton			487	
(By Mr. White)		455		
(By Mr. Barclay)		485		
Donald Gurewitz	500			
(By Mr. White)		509		
(By Mr. Barclay)		510		
Gerald T. Grimaldi	512		576	
(By Mr. White)		563		
Sidney Peck	580		600	
(By Mr. White)		593		
(By Mr. Barclay)		597		
Courtland Jones	600			

EXHIBITS

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Q. If you will look at the first paragraph of the text of the document --

A. Right.

Q. -- does it indicate there to you that a person who's named there had occasion to hear your sermon or to be present at the sermon?

A. It was not a sermon, but it was a presentation. Yes, that is correct.

Q. And what was the name of that person?

A. It looks like S. A. Forest F. Burgess, B-u-r-g-e-s-s.

Q. And you mentioned the "From" line in the document. And what's the name that appears on the "From" line?

A. S. A. Forest F. Burgess.

Q. And who was the document to?

A. S. A., WFO, whatever WFO means.

Q. To your knowledge is Mr. Burgess a Defendant in this action?

A. To my knowledge -- that means that -- he is on the other side?

Q. Yes. Other side from you.

A. I don't know. The sides change.

Yes, yes.

Q. To your knowledge he is a Defendant presently?

A. To the best of my knowledge -- to the best of my

knowledge, he is.

Q. Thank you.

Would you look at the document again, and is there any indication to you -- I realize you're not an expert, sir, -- but is there anything on this matter, on the FBI documents -- but is there any indication to you that the names of either Charles Brennan or George Moore, Gerry Grimaldi, Gerry Pangburn, or Courtland Jones appear on that document?

MS. PILSBURY: Your Honor, we'll stipulate that they don't.

BY MR. WHITE:

Q. Reverend Eaton, with regard, now, to this event, do you have any personal knowledge from your own experience or from any documents that you've seen as to the positions that the five individuals I've just named had in the FBI in 1966 at the time that this memorandum was prepared?

A. I have no knowledge of positions that were occupied by FBI persons at all. It's not usual public information.

Q. Well, I'm also asking based on any documents you've seen during the course of this litigation since 1976. Do you have any knowledge as to what positions they might have had, if any, during 1966?

A. There was one document in my file, and I can't

recall it because it's rather extensive, where there is -- made mention, I think, of persons' names. But I don't recall what context it was in.

Q. Thank you, sir.

Reverend Eaton, you also testified regarding your affiliation with the Black United Front. Could you explain again for us when the Black United Front was founded and what your position was, if any, at the time of its founding?

A. The Black United Front was founded around 1966 or '67, in that particular period. It came together for two basic purposes. One had to do with the police brutality that was occurring in the District community at that time. This, I think, has been documented by other sources, the press, the police itself. And it was a concern on the part of persons like Sterling Tucker, Congressman Walter Fauntroy, Channing Phillips, David Eaton, Calvin Rollar, that the type of information that was being disseminated to the Washington community was not always fair. And there needed to be a better communication across the spectrum between persons like Eda Horne, who was the leader of the Welfare Mothers Association, and persons like Sterling Tucker, who was then on the City Council, I believe.

Stokely Carmichael was then with the Student Nonviolent Coordinating Committee --

Q. Reverend Eaton, I --

A. -- and the purpose -- you asked me the question -- the purpose was to get together the spectrum, to communicate on the issues, and this was the purpose in starting the Black United Front .

My role in it was to begin that process, since I knew all of these persons, all of these people, personally.

So we came together to begin this process, and the first thing that we dealt with happened to be the police brutality at that particular time because a young man, in fact, was shot by a policeman, and it was called justifiable homicide. And that's the purpose we came together.

MS. BONN: Your Honor, I want to place an objection on two grounds. First, this testimony -- this has already been testified to on direct, and it's cumulative.

The second reason is the issue of police brutality with respect to this case is irrelevant.

THE COURT: The objection is overruled. It was in response to a cross-examination question.

BY MR. WHITE:

Q. Reverend Eaton, I did not mean to interrupt you during your answer. But I wanted to ask you -- you also tstified that another issue that the Black United Front was concerned about was the matter of narcotics being sold within the black community, is that correct?

A. That was the second issue we took up. The first

A. Okay.

Q. -- and who you believed and knew to tell the truth --

A. Right.

Q. -- told you that he or she was about to do something or had done something which you did not think was proper, does the fact that you would have believed that they were telling the truth about that mean that you would have agreed that it was proper?

A. No. I would have told them not to do it.

MR. WHITE: Thank you. That's all I have.

THE WITNESS: I would have told them not to do it.

THE COURT: Ms. Bonn.

CROSS EXAMINATION

BY MS. BONN:

Q. Good morning, Reverend Eaton.

A. Good morning.

Q. I'm Laura Bonn, and I represent the District of Columbia and the District of Columbia Defendants, and I have just a few questions for you this morning.

Reverend Eaton, directing your attention to the years of 1967 through 1971, did you have any knowledge at that time as to whether you were under surveillance of any kind by the Metropolitan Police Department?

A. None.

Q. Did you ever come in contact during the years of 1967 to 1971 with a gentleman by the name of Mr. Harold Bynum?

A. Harold Bynum?

Q. Bynum.

A. Not to my recollection.

Q. Did you ever come in contact with a gentleman by the name of Mr. John Harding during those years? John Harding, H-a-r-d-i-n-g.

A. I'm terrible on names. I'm much better on faces. If I could see the pictures of these persons, I could tell you, but on names, I can't.

Q. I don't have the pictures at this time.

Do you presently, today, have any knowledge as to whether you were under surveillance during the years of 1967 through 1971 by the Metropolitan Police Department?

A. I have no knowledge.

Q. Were you ever interviewed by any member of the Metropolitan Police Department during the years of 1967 through 1971?

A. Not to my knowledge.

MS. BONN: Thank you. I have no further questions.

THE COURT: Redirect?

MS. PILSBURY: Thank you, Your Honor. I'll be fairly brief.

District of Columbia?

A. Yes. Well, I moved to the District of Columbia. in 1969. I was a student in the beginning of that year, and I moved here that summer.

Q. And were you active in any antiwar activities in 1969?

A. Yes, I was. I moved here to be involved in plans for the November 15th March on Washington.

Q. Were you associated with any particular organization?

A. Yes, the New Mobilization Committee to End the War in Vietnam.

Q. And what was your position or association with that group?

A. I was one of the two initial staff members when their Washington office was set up for the November 15th march.

Q. And where was that office?

A. At 1029 Vermont Avenue.

Q. And you indicated there were two staff people?

A. Yes.

Q. Who was the other one?

A. Steve Wilcox.

Q. How did you and Mr. Wilcox divide up the staff responsibilities?

A. Well, it was somewhat fluid, but I was generally

in charge of literature production and a system for processing the mail of which there was a great quantity.

And Mr. Wilcox was involved -- he had been involved in some activities in the movement of GI's against the war in Vietnam, and he was active with some of those groups, and he also handled some of the financial matters in the office as a signer of our paid cash account.

Q. Could you sign the petty cash checks?

A. No.

Q. Just him?

A. Yes.

Q. How did you come to acquire office space at 1029 Vermont Avenue?

A. When I arrived in Washington, Mr. Wilcox was already here. And he proposed that we take an office at 1029 Vermont.

Q. Do you recall what month that was?

A. It was late July.

Q. From late July throughout the rest of 1969 were you at the New Mobe offices?

A. Every day.

Q. How long did you continue to work for the New Mobe, if you can recall?

A. A bit beyond the demonstration, into December, I guess it was.

very uncommon.

Q. Did he ever discuss his feelings about any political issues with you?

A. Yes.

Q. How would you characterize his political position at that time, if you had an opinion?

A. He didn't seem to have -- unlike most of the people I was working with and myself, he didn't really seem to have very strong opinions. He was often very snide or bitter, kind of hostile when problems came up such as the Black United Front's demand. But he didn't really seem -- he seemed kind of detached from the whole operation to me.

Q. How long did he continue to work with the New Mobe offices?

A. At least through the -- he was still working at the New Mobe at the time I stopped, and I don't know beyond that.

Q. Do you know whether or not -- you say you left first?

A. I believe so, yes.

Q. Have you continued to be active since that time in antiwar activities?

A. Yes.

Q. Did you ever see Mr. Wilcox again after you stopped working at the New Mobe?

A. Yes.

Q. Where did you see him?

A. I saw him at numerous conferences and meetings. He continued to be active in G.I. -- with groups of G. I.'s who were against the war in Vietnam.

Q. When was the most recent time you recall seeing him in a meeting, if you can remember?

A. Probably sometime in 1970 -- late 1970.

Q. You haven't seen him since that time?

A. No.

THE COURT: Did you say 1970?

THE WITNESS: Yes, sir.

BY MS. PILSBURY:

Q. Mr. Gurewitz, I'm going to show you a document marked for identification as Plaintiffs' Exhibit No. 17, which is in evidence. Have you ever seen that document before?

A. Yes, I have.

Q. Can you identify it? Do you know what it is?

A. Yes. It's a written form of the demands presented by Reverend Moore for $1 per person head tax on the demonstrators.

Q. Does that -- written in what form?

A. It's a letter addressed to Mr. Bloom.

Q. Now, did you see that letter, this letter, at the time that the issue was being discussed back in 1969?

April of 1971 -- I think it was '71.

Q. From the period beginning approximately in the middle of the 1960's through approximately April of 1970, you were a member of Squad S-7 of the Washington Field Office, isn't that correct?

A. That's correct.

Q. And Squad S-7 was the squad that handled investigations of New Left organizations, isn't that correct?

A. That's correct.

Q. And Squad S-7 handled an investigation of the New Mobilization Committee to End the War in Vietnam, isn't that correct?

A. That's correct.

Q. And also an investigation of the People's Coalition for Peace and Justice?

A. I believe so, yes.

Q. Squad S-7 was also the squad responsible for implementing the counterintelligence program directed against the New Left, isn't that correct?

A. One of them, yes.

Q. When you say "one of them", what do you mean by that?

A. Well, there were two squads. One was the S-7 Squad.

Q. Was the other Squad S-5?

use of sources to capitalize on differences prevalent within New Left organizations?

A. Yes, that was contemplated.

Q. And it was also contemplated that the Washington Field Office would encourage sources, meaning FBI sources, to undertake leadership roles in those organizations and stimulate dissention?

A. That was contemplated, yes.

Q. And was it also contemplated to carry out this program that the Washington Field Office would establish a leafleting program designed to stimulate conservative students to take action against radical students?

MR. WHITE: Your Honor, counsel is clearly asking questions based on the content of the document, and the document speaks for itself.

THE COURT: The witness is here, and he can testify about it. The objection is overruled.

BY MR. SCHEMBER:

Q. Was that also one of the actions contemplated?

A. Sir, would you repeat your question.

Q. Was it not contemplated by the Washington Field Office to establish a leafleting program to stimulate conservative students to take action against radical students?

A. If necessary.

ordinary course of business of an office with which he was familiar.

BY MR. SCHEMBER:

Q. Mr. Grimaldi, I've placed before you Plaintiffs' Exhibit 13 in evidence. That's a document you wrote, did you not? Is it not?

A. That's correct.

Q. And this document recommends to the Director of the FBI an action under the New Left counterintelligence program?

A. It's a request for authorization to enact an operation.

THE COURT: The next question, be careful that it's not a leading one.

MR. SCHEMBER: Your Honor, Mr. Grimaldi is a Defendant in this case. I --

THE COURT: That's a direction. Make sure that it isn't a leading question.

MR. SCHEMBER: Very well, Your Honor.

BY MR. SCHEMBER:

Q. What was the purpose of your request for -- what was the actions contemplated by your request?

A. It appears that WFO wanted to conduct a similar operation which was conducted by another office.

Q. And what was that operation?

to proceed differently; that is, by direct examination, correct direct examination, without leading.

MR. SCHEMBER: Very well, Your Honor.

BY MR. SCHEMBER:

Q. Mr. Grimaldi, what is the subject matter of Plaintiffs' Exhibit 15?

A. It's a counterintelligence operation.

Q. And what was that operation?

A. From the communication it appears that someone utilizing the Citizens Band gave out disinformation.

Q. Did you say disinformation?

A. That's correct.

Q. And who gave out that disinformation?

A. I don't know.

Q. Calling your attention to paragraph 2 of the first page of Plaintiffs' Exhibit 15, does that paragraph refresh your recollection as to who it was that gave out the disinformation?

A. No.

MR. SCHEMER: Your Honor, may I cross-examine the witness?

THE COURT: Yes.

BY MR. SCHEMBER:

Q. Mr. Grimaldi, paragraph 2 indicates, does it not, that the Washington Field Office of the FBI engaged in the

disinformation?

A. I have no personal knowledge of this.

THE COURT: The question is what the document says.

THE WITNESS: Okay. I'm sorry, Your Honor.

BY MR. SCHEMBER:

Q. Isn't that what --

A. The document says that -- shall I read the paragraph?

THE COURT: If you'd like.

BY MR. SCHEMBER:

Q. You may. The second paragraph -- would you read the second paragraph, Mr. Grimaldi.

A. Surely.

"WFO, realizing the importance to the NMC --"

MR. WHITE: A little louder, sir.

THE WITNESS: Oh, I'm sorry. Yes.

"WFO, realizing the importance to the NMC of obtaining knowledge concerning police and military contingent movements, engaged in a disinformation program utilizing the Citizens Band."

BY MR. SCHEMBER:

Q. Would you read the second sentence of the paragraph.

A. "This was done by identifying with the NMC network as a unit within that network, and by countermanding any NMC orders to the Marshals and by supplying the Marshals

with disinformation."

Q. And in so acting, the Washington Field Office was able to disrupt the planning of the NMC, was it not?

A. This is the claim that was made.

Q. And this is the claim that was made in a memorandum authored by you, was it not?

A. Not -- I wrote the memorandum, yes. And it's a claim that was made in the memorandum, yes.

Q. And you received information, did you -- strike that.

Mr. Grimaldi, did you receive information concerning the results of your -- WFO's -- utilization of this technique?

A. I personally didn't.

Q. Is it not true that the Washington Field Office received a report from a Washington Field Office source, who was a marshal at the demonstration, concerning the effect of the Washington Field Office's interference?

A. I personally didn't. I just wrote down what I was told. I don't have any firsthand knowledge of that.

Q. Did you write down what you were told in the first paragraph on page 2 of this exhibit?

A. That's correct. That was information that was furnished to me.

Q. What does that paragraph say?

A. "A source of WFO who was a marshal and part of NMC's communication network advised WFO that the NMC communications broke down and did not operate the way they had it planned. The source stated that very confusing orders were issued and then countermanded; that NMC groups were dispatched to areas that had no relevance to the inauguration activities."

Q. And NMC is a reference to New Mobilization Committee, is it not?

A. I assume so, yes.

Q. Mr. Grimaldi, you recommended in your memorandum, did you not, that this technique would be appropriate for the Bureau to suggest to other field offices to carry out?

A. I did not recommend it. It was recommended.

Q. It was recommended in the memorandum that you wrote?

A. In the memorandum that I wrote.

MR. SCHEMER: Your Honor, at this time I move Plaintiffs' Exhibit 15 into evidence.

MR. WHITE: No objection.

THE COURT: Plaintiffs' Exhibit 15 is received.

(Plaintiffs' Exhibit No. 15 was received in evidence.)

BY MR. SCHEMBER:

Q. Mr. Grimaldi, I've placed before you Plaintiffs'

Exhibit 16 -- marked for identification as Plaintiffs' Exhibit 16.

Is that an official record of the FBI?

A. Yes.

Q. Does Plaintiffs' Exhibit for identification No. 16 refer to the subject matter of the disinformation program that you had recently testified about?

A. That's correct.

MR. SCHEMBER: Your Honor, at this time I move Plaintiffs' Exhibit 16 into evidence.

MR. WHITE: I guess we have no objection. I didn't hear a foundation, but we don't object.

THE COURT: It will be received without objection.

(Plaintiffs' Exhibit No. 16 was received in evidence.)

BY MR. SCHEMBER:

Q. Mr. Grimaldi, do you recognize the name of the special agent that appears at the top of Plaintiffs' Exhibit 16?

A. Yes, I do.

Q. What is that name?

A. It's S. A. Wilfred R. Schlarman.

Q. And what position did Mr. Schlarman occupy at the time that this document was prepared?

A. I believe he may have been a supervisor at that

Washington, D. C. coinciding with the Presidential Inauguration of January 20, 1969?

THE COURT: Don't answer that question yet, Mr. Grimaldi.

Yes?

MR. WHITE: Your Honor, I object to the inquiry regarding this document inasmuch as Mr. Grimaldi says he never saw it before.

THE COURT: The objection is sustained.

MR. SCHEMBER: Your Honor, at this time I move Plaintiffs' Exhibit 105 into evidence.

MR. WHITE: I object, Your Honor. No foundation has been laid.

THE COURT: You bring that in some other way, counsel. Don't do that through this witness.

BY MR. SCHEMER:

Q. Mr. Grimaldi, I've placed before you Plaintiffs' Exhibit 27 in evidence. Do you recognize that document?

A. Yes, I do.

Q. Do you recognize the attachment with the document?

A. Yes, I do.

Q. Are you the author of both the first page of the document and the attachment?

A. That's correct.

Q. What was the purpose of the memorandum constituting

the first page of Exhibit 27?

A. It was a request to print and distribute the attachment.

Q. And what is the attachment?

A. The attachment is a little bulletin.

Q. Does the bulletin indicate who the author is?

A. No, it doesn't.

Q. Does the bulletin indicate who the author purports to be?

A. No, it doesn't.

MR. SCHEMER: May I cross-examine the witness, Your Honor?

THE COURT: No.

BY MR. SCHEMER:

Q. Mr. Grimaldi, did you receive permission from FBI Headquarters to carry out the action requested in this memorandum?

A. Yes, I did.

Q. Did you implement that action?

A. That's correct.

Q. What did you do?

A. I had the bulletin printed, and I had it deposited on American University.

Q. Was it deposited anywhere else?

A. No. Not that I know.

Q. And who deposited this bulletin at American University?

MR. WHITE: Your Honor, we would object to the disclosure of the name --

MR. SCHEMBER: I'm sorry, Your Honor. I did not mean to ask for the name.

BY MR. SCHEMER:

Q. Without indicating the name of the person, --

A. A source.

Q. Was this a Washington Field Office source?

A. That's correct.

Q. An informant?

A. That's correct.

Q. What is the subject matter of this newsletter, Mr. Grimaldi?

A. Well, it describes it on the first page on the left-hand side about the third paragraph down.

It says, "The purposes and aims of this paper are not to stifle dissent, but to expose charlatans of the Right, Left, and Middle, whether they be in Government, industry, clergy, labor or the academic world, to expose those who capitalize on legitimate dissent for their own selfish purposes or conceive to pressure groups the rights of the orderly."

Q. Does the first paragraph of that that you have

just read, in the block that you have just read, also indicate the purpose of -- one of the purposes of this bulletin?

A. Yes. It is an attempt by a small group of students who love democracy to preserve democracy, and who believe that evil exposed is evil eliminated.

Q. Was this written by a small group of students?

A. In part.

Q. Mr. Grimaldi, you testified, did you not, that you wrote this document?

A. That's correct. I composed the document. That's correct, with input.

Q. With input from whom?

A. From sources.

MR. WHITE: We would object again to the disclosure of the names of the sources.

THE COURT: Very well.

THE WITNESS: From sources.

BY MR. SCHEMER:

Q. This was a joint effort between you and FBI informants, is that correct?

A. Yes, it was. They partially contributed to this.

Q. Was your involvement in the preparation of this document indicated on the document?

A. No, it isn't.

Q. Was there a reason why it was not indicated?

A. Yes. At that time I don't think students would be very happy having the FBI write bulletins and depositing them on the campus. They didn't like us.

Q. This was an action that you took under the counterintelligence program, New Left?

A. That's correct.

Q. And that program was a secret program, was it not?

A. Counterintelligence program? Yes, it was considered secret, yes. Although we never classified it as -- never put any classification on it.

Q. Were you under any instructions regarding revealing the existence of that program?

A. Well, if it was a secret program, the Bureau considered it secret, I was obliged not to disclose it, yes.

Q. Mr. Grimaldi, did this bulletin, as you have called it, make a recommendation as to whether students should involve themselves in the Student Mobilization Committee?

A. What are you referring to, counselor?

Q. I am directing your attention to page 5 of the bulletin.

A. Page 5, yes, all right.

Q. Does that page indicate to you a recommendation as to whether students should involve themselves in the Student Mobilization Committee?

the document which created the program?

A. Yes.

Q. And what is the date of that document?

A. May 10, 1968.

Q. Do you recall who assigned you to be the COINTELPRO - New Left Coordinator?

A. Well, the Bureau Supervisor at the -- pardon me -- the Squad Supervisor at the time.

Q. Do you recall the name of the Supervisor?

A. I don't know whether it was Ferguson or Palmer.

Q. Could you give the jury and the Court, please, the first names?

A. Oh, I'm sorry. John Palmer and I don't recall Ferguson's first name.

THE COURT: I lost that. Now, what are they?

MR. WHITE: They were the Squad Supervisors, Your Honor. Well, one of them. He can't recall which one was the Squad Supervisor in May of 1968.

BY MR. WHITE:

Q. Who, to your knowledge, created the counterintelligence program?

A. It was created in Bureau Headquarters.

Q. It was not your idea?

A. No.

Q. Could you explain briefly, please, what your duties

were as the counterintelligence program Coordinator?

A. Yes. I was responsible for answering communications from FBI Headquarters. I was the funnel through which suggestions were made or any paperwork that had to be handled was routed through me.

Q. Who was responsible, if anyone, for creating proposals or ideas under the program?

A. Well, according to Bureau instructions, anyone who was involved on those squads.

Q. Now, you from time to time would send or would prepare memoranda carrying proposals. Were you the creator of those proposals in all instances?

A. No.

Q. Mr. Grimaldi, if you would look, please, sir, at -- I believe it's Exhibit No. 14 -- 13 and 14, please, looking first at Exhibit No. 13.

A. Yes, I have it.

Q. Now, Exhibit No. 13, is that the document which contains the proposal regarding the use of the housing forms in connection with the demonstration?

A. Yes, sir, that's correct.

Q. Do you recall whose idea it was to make this proposal?

A. No, I don't.

Q. Was it your idea?

A. No.

Q. I'd like to direct your attention to the first -- the first paragraph -- the first full paragraph just to put you in context.

Mr. Grimaldi, do you recall how the form, the housing form, was received by you, personally?

A. No, I don't recall. It was sent by --

THE COURT: If you don't recall, that's your answer.

THE WITNESS: Oh, I'm sorry. That's right. Thank you.

BY MR. WHITE:

Q. To your recollection, was it given to you by one of your informants?

A. No.

Q. Mr. Grimaldi, now, if you would look at Exhibit No. 14, please, sir.

A. Yes.

Q. Now, would you again describe just briefly for the jury's benefit, please, what Exhibit 14 is and how it relates to Exhibit 13.

A. This is a communication from FBI Headquarters to our office, that is, the Washington Field Office, and it's captioned COINTELPRO - New Left. It refers to -- excuse me -- the communication that we sent to the FBI Headquarters

on January 9th, 1969 requesting authority to distribute these housing forms. And it grants authority to distribute the housing forms.

Q. Now, Mr. Grimaldi, what, if anything, would have been required for anyone at the Washington Field Office to implement this proposal?

A. Well, it would require a number of people to sit down and dream up names and addresses and so on, and fill out forms, and mail them out, and that's what it really was.

Q. Did you engage in any such activities yourself?

A. No, I didn't.

Q. To your knowledge, did anyone else?

A. Not that I know of.

Q. Now, Mr. Grimaldi, looking at Exhibits 15 and 16, sir, these -- do you have them?

A. Yes, I have them. I'm sorry.

Q. These exhibits relate to an activity which occurred in connection with the inauguration of the President in 1969. Do you recall what your duties were on the day of the inauguration?

A. Yes. I was assigned to receive information from informants who would be taking part in the activities of those days. I was assigned in the office and waiting for phone calls, and taking down messages.

Q. Did you have use, yourself, at that occasion of a radio?

A. No, I didn't.

Q. Do you have any -- did you at that time, on the day of the inauguration, have any personal knowledge as to -- let me start over. I'm sorry.

Going to Exhibit No. 15, does Exhibit 15 recount or describe an activity engaged in by the Washington Field Office in connection with the inauguration?

A. Yes, it does.

Q. Now, what is the date of that memorandum?

A. It's dated January 21, 1969.

Q. And are you the author of that memorandum?

A. That's correct.

Q. What is the activity which is described in Exhibit No. 15?

A. It describes the disinformation utilized in -- with Citizen Band radios during the demonstrations.

Q. During demonstrations?

A. During the DEMPIC demonstrations.

Q. Well, during the demonstrations which occurred when, sir?

A. I would imagine either the 21st of January or 20th of January. I don't recall. I don't recall the dates of the demonstration.

Q. Did you personally participate in the activity described; that is, the use of these radios for the purpose of disinformation?

A. No.

Q. You did not?

A. No, sir.

Q. Were you aware at the time that it was occurring that it was occurring?

A. No, sir.

Q. How were you informed, to the best of your recollection, that it had occurred?

A. Well, I don't recall exactly, but apparently it was from this memo from Schlarman.

Q. And you're referring now --

THE COURT: I didn't hear you.

THE WITNESS: I'm sorry, sir. I said I don't recall exactly, but I think it was this memor from S. A. Wilfred R. Schlarman.

THE COURT: All right.

BY MR. WHITE:

Q. You're referring now to Exhibit No. 16?

A. Exhibit 16, yes.

Q. 16.

So to the best of your knowledge, then, the source of your information was that document now identified as

Plaintiffs' Exhibit 16?

A. Yes.

Q. Do you have any recollection as to why you were the one to report this matter to Headquarters?

A. Well, I was the COINTELPRO Coordinator, and so the paper had to go through me.

Q. Do you have any recollection as to who decided that this would be an appropriate matter, if it is, to report it under the counterintelligence program caption?

A. I would assume that it would have been the Supervisor.

Q. Returning just briefly, Mr. Grimaldi, to Exhibit No. 14, the one having to do with the housing forms, --

A. Yes, I have it.

Q. -- and also Exhibit 13, is there anything on those memoranda indicating that the activity proposed -- that is, the fictitious housing forms -- is there anything to indicate that that activity was carried out?

A. No, there is nothing to indicate that.

Q. Now, I'd like you to look now at the Exhibit No. 27.

A. I have it.

Q. And attached to 27 there is what you've previously described as a bulletin, is that correct?

Q. Was the counterintelligence program in existence in April of 1971?

A. No, it wasn't.

Q. When, to your knowledge, did it terminate?

A. I think approximately in March of '71 or April of '71.

MR. WHITE: That is all I have. Thank you, sir.

THE COURT: Mr. Barclay?

MR. BARCLAY: I have nothing.

THE COURT: Any redirect, Mr. Schember?

REDIRECT EXAMINATION

BY MR. SCHEMBER:

Q. Mr. Grimaldi, just a few more questions.

I believe you made reference to a phrase in connection with your discussion of Plaintiffs' Exhibit 16, a memorandum written by Mr. Schlarman, and that word was DEMPIC. Do you recall that testimony?

A. Yes, sir.

Q. What does DEMPIC mean?

A. I think it had something to do with demonstrations. It's an acronym for -- I just can't recall.

Q. Mr. Grimaldi, was it the routine practice of the Washington Field Office to formulate a recommendation for counterintelligence program actions, write that up in a memorandum, submit it to FBI Headquarters for approval,

obtain approval, and then not implement it? Was that the routine practice of the Washington Field Office?

A. In most instances, I'd say yes.

Q. Was the response to The Rational Observer that you received, was that a signed response?

A. Yes.

Q. Who was the author of the response?

A. I'm sorry, I can't recall the name.

Q. Did you open a file on that person?

A. No.

MR. SCHEMBER: I have nothing further.

THE COURT: We'll excuse the jury now.

(Jury not present.)

THE COURT: Mr. Grimaldi, in addition to the matters before the jury, I have before me an application for an injunction by the Plaintiffs against certain Defendants who include -- well, you know who they are. They include the Director, among others.

I gather that your contention is or will be that whatever happened with the housing and with the disinformation, and with The Rational Observer, either you weren't responsible or somebody else was more responsible. Has that been your testimony?

THE WITNESS: Except for The Rational Observer, Your Honor.

THE COURT: Who would that be?

THE WITNESS: Well, I was the one --

THE COURT: Who was responsible?

THE WITNESS: For approving it?

THE COURT: Who was responsible? You said that you were doing just what you were told.

Who told you to do the housing matter?

THE WITNESS: I don't recall, sir, but it was probably the Supervisor.

THE COURT: All right.

Who told you to do the dissemination, the dis-information?

THE WITNESS: The disinformation? That was probably the Supervisor -- but that was based on a memo, sir, from Mr. Schlarman.

THE COURT: You said that you -- my question is, if you weren't responsible, who was?

THE WITNESS: I don't know on the --

THE COURT: If you know.

THE WITNESS: I don't know on the first question.

THE COURT: All right.

THE WITNESS: And I don't know that Mr. Schlarman was responsible, either.

THE COURT: So who was?

THE WITNESS: I don't know, sir.

THE COURT: And how about The Rational Observer? Who told you to do that?

THE WITNESS: Oh, Headquarters. Well, I dreamed it up.

THE COURT: All right.

THE WITNESS: But no program could be implemented without it.

THE COURT: I understand that.

THE WITNESS: Yes, sir.

THE COURT: So you were the originator of the idea and implemented it?

THE WITNESS: Yes, sir.

THE COURT: You may step down. Thank you, Mr. Grimaldi.

THE WITNESS: Thank you, sir.

THE COURT: We will take a recess.

(Whereupon, a short recess was taken.)

AFTER RECESS

(Jury not present.)

THE COURT: Do you have another witness?

MS. PILSBURY: Yes, Your Honor. Our next witness will be Dr. Sidney Peck.

Would Dr. Peck come to the witness stand.

THE COURT: Bring back the jury.

(Before the jury.)

Q. What brought you to Washington, D. C.?

A. Well, there were occasional meetings of our steering committee for the demonstrations that were being planned in Washington for the fall of 1969. I was a Co-Chairperson of the demonstration being planned for Washington, D. C.

Q. Did the New Mobe have office space in Washington, D. C.?

A. Yes, it did.

Q. Was this its national headquarters?

A. Well, to the extent that the demonstrations were being organized here, it became the national office, yes. But there also was an office on the West Coast because there was a comparable demonstration, I think, in San Francisco at that time, as well.

Q. And where was the office here located, if you recall?

A. It was located on Vermont Avenue.

Q. Now, during the summer of 1969 did you have any occasion to be involved in discussions about a proposal that that the peace groups pay a tax or some money to local black groups?

A. Yes.

Q. Can you recall when you first heard about this proposal?

A. To the very best of my recollection, I heard it in a private conversation at the time that I was requested by the steering committee of our New Mobilization Committee to go to the West Coast to help bring organizations and groups together in the San Francisco area to initiate the demonstration on the West Coast.

Q. Is that where you were when you first learned of this idea?

A. To the very best of my ability to recall it, yes.

Q. And can you recall when that was that you were out on the West Coast?

A. It was sometime in early to mid-August.

Q. Would it have been before August 10th?

A. I really can't say for sure.

Q. And who told you about the idea?

A. I was accompanied on that mission to San Francisco with a person who was to assist me and who was assigned by the steering committee to accompany me, and his name was Steve Wilcox.

Q. Did anyone else from the New Mobe Committee talk to you about that idea out on the West Coast?

A. No. That was the first that I ever heard of it.

Q. Okay.

And what was your reaction when you heard about it from Mr. Wilcox?

A. Well, my reaction was one of disbelief. I couldn't imagine that somebody would come up with a proposal of that sort.

I felt somewhat angered by it, because I knew that to bring thousands of people out into the streets to oppose the war was a difficult job in itself, and I knew that we had very little funds at our disposal to engage in that effort.

Q. What, if anything, did you say to Mr. Wilcox about this idea at that time?

A. Well, in response to his giving me the information that this proposal was being suggested by a group of persons in the black community who considered themselves to be very militant and revolutionary in their beliefs, I couldn't accept that definition of them, if they put forward a proposal like this. And so my response was how can they claim to be. If it's true that they were really making this proposal, how can they claim to be either militant or revolutionary? It would be very difficult for me to understand that, given the fact that people struggling for their national independence in Vietnam and Indochina were being bombed to death.

Q. Did you say this to Mr. Wilcox?

A. Yes, I did.

Q. Now, subsequent to that or -- strike that.

Do you recall if you were at a meeting on August 10th in Washington, D. C. at a Jane Silverman's house where this idea was mentioned or discussed?

A. No, I don't recall that.

Q. You don't recall or you weren't there?

A. To the best of my ability to recall, I wasn't there.

Q. Do you recall whether you did return to Washington in August or if you did?

A. Yes, I did because there was a meeting of our administrative or steering committee that was held in Washington sometime in August.

Q. Do you know when in August?

A. I couldn't give you the exact date, no.

Q. Can you tell me approximately, if you can remember?

A. Well, it had to be from mid to late August, sometime in that two-week period.

Q. And where was that meeting held?

A. Well, in Washington, D. C., and at one of the local hotels.

Q. And you may have indicated this, but what type of meeting was that?

A. It's a meeting of our steering committee. It was also sometimes called our administrative committee.

Q. Did you chair that meeting?

A. Yes. I either chaired it most of the time or

Do you recall if you were at a meeting on August 10th in Washington, D. C. at a Jane Silverman's house where this idea was mentioned or discussed?

A. No, I don't recall that.

Q. You don't recall or you weren't there?

A. To the best of my ability to recall, I wasn't there.

Q. Do you recall whether you did return to Washington in August or if you did?

A. Yes, I did because there was a meeting of our administrative or steering committee that was held in Washington sometime in August.

Q. Do you know when in August?

A. I couldn't give you the exact date, no.

Q. Can you tell me approximately, if you can remember?

A. Well, it had to be from mid to late August, sometime in that two-week period.

Q. And where was that meeting held?

A. Well, in Washington, D. C., and at one of the local hotels.

Q. And you may have indicated this, but what type of meeting was that?

A. It's a meeting of our steering committee. It was also sometimes called our administrative committee.

Q. Did you chair that meeting?

A. Yes. I either chaired it most of the time or

part of the time.

Q. Was this idea discussed at that meeting?

A. Yes.

Q. And what happened at that meeting?

A. Again, to the best of my knowledge, I remember Arthur Waskow, who was a political activist in the white community in Washington, raising this issue and speaking very much in favor of our organization responding to the proposal in a positive way.

Q. Was there a discussion back and forth about it?

A. Yes, there was discussion, and it was a rather intense exchange of views.

Q. Did you receive any communication that day from anybody in the Black United Front?

A. During the course of that exchange someone said that there was a phone call for me. And I left the meeting to take the phone.

It was -- I can remember, I think, that it was a phone somehow near the room that we were meeting in. And the person on the phone identified himself as someone calling from the Black United Front, and the person was very angry and very critical of what he said was my questioning of the revolutionary integrity and the militancy of the Black United Front because of my opposition to their demands.

Q. Had you made such a statement questioning the integrity and the militancy of the Black United Front at that meeting that day?

A. No, I didn't.

Q. Had you made such a statement at any time?

A. The only way in which that could have ever been perceived in that way was in the conversation that I had privately in a car with Steve Wilcox. That's the only person that I ever discussed that with in that way. That is to say, if a group put forward a proposal like that, if they really did, then I would seriously question their integrity as militant and/or revolutionary persons.

Q. Had the fact that you were meeting that day at the hotel been announced publicly?

A. No, it was not a matter for the press.

Q. Had you, to your knowledge, informed the Black United Front that you were going to be meeting that day at that hotel?

A. I didn't -- no, I didn't.

Q. Doctor Peck, I'm going to show you an exhibit marked as Plaintiffs' Exhibit 23, which is in evidence.

I will ask you to take a second and look at both pages of that exhibit.

Now, directing your attention to the second page of that exhibit, have you ever seen this document before?

A. Yes, I have.

Q. And could you just indicate how that document on the second page is signed?

A. It's signed "Sid".

Q. What's the salutation right above it?

A. "Affectionately, Sid."

Q. And from reading the document, from the contents of it, does it appear to be from you?

A. It certainly -- I don't think it could refer to anybody else.

Q. Did you, in fact, write that?

A. No, I did not.

Q. Now, you indicated that you were in Washington for a meeting in late August. Did you continue to stay in Washington after that or did you leave?

A. Well, I went back home to Cleveland. I don't know that I left immediately or the following day, but I'm sure within a day or two I returned home.

Q. Did you have occasion to return to Washington before the November demonstration?

A. Oh, yes.

Q. Do you recall about when you came back?

A. Well, I may have come back again for steering committee meetings or meetings of the project group, but I do know that sometime in the area of 10 days to two weeks

or so I did return to Washington to provide leadership for the coordination of the demonstration.

Q. And did you stay then the two weeks prior to the demonstration?

A. Yes.

Q. You were here in the city?

A. Yes.

Q. What --

A. For approximately -- I don't know if it was exactly two weeks, but somewhere along that line.

Q. What were your specific responsibilities in terms of the November 15th demonstration?

A. Well, there were three Co-Chairpersons for the demonstration. One was Mr. Stewart Meachem, who was the Peace Secretary of the American Friends Service Committee, and he was responsible for the march against death which preceded the mass demonstration.

The second person was Mrs. Cora Weiss, who was at that time with the Women's Strike for Peace. And she was in charge of producing the cultural events and the staging of the events from the actual stage at the Washington -- in the Washington Monument area.

My responsibilities were primarily to oversee the logistical and political operation of the mass rally itself.

Q. Okay. Had you gotten a permit for this demonstration?

A. Yes, I think we secured a permit through the Park Service.

Q. Did you have any logistical problems on November 15th or prior to it?

A. Well, we had a crisis situation ... a day or so -- I can't remember how many days prior to the demonstration -- when we received word from the phone company that our phones were going to be shut down. Of course, I can't imagine any more of a crisis because that takes us completely out of communication with people making arrangements to come into Washington from all over the country.

Q. And what, if anything, did you do in response to this problem?

A. Well, the problem was that the phone company informed us that they were shutting down the lines because their bills were not being paid and evidently the checks that they had from us were not worth anything, and they demanded immediate cash on the line for their bills.

Q. Did you have to come up with the cash?

A. Well, my first --

THE COURT: Wait --

BY MS. PILSBURY:

Q. Doctor Peck, were you at the time, in 1969, personally acquainted with the people who were affiliated with the Black United Front in Washington, D. C.?

MR. WHITE: Your Honor, I believe this question goes beyond the scope of the cross-examination.

THE COURT: The objection is overruled.

THE WITNESS: No, not that I can recall.

MS. PILSBURY: That's all, Your Honor.

THE COURT: Any recross?

MR. WHITE: No further questions.

THE COURT: You're excused.

(Witness excused.)

THE COURT: Next witness.

MR. SCHEMBER: Plaintiffs call Courtland Jones.

Whereupon,

COURTLAND J. JONES

was called as a witness on behalf of the Plaintiffs and, after being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SCHEMBER:

Q. Mr. Jones, my name is Dan Schember, one of the attorneys for the Plaintiffs.

Would you state your full name and current address for the record, please.

A. Yes, I will. My name is Courtland J. Jones, and

I live at 6607 North 29th Street, Arlington, Virginia.

Q. And are you a Defendant in this case?

A. I certainly am.

Q. Were you at one time affiliated with the Washington Field Office of the FBI?

A. Yes.

Q. During what time period, sir?

A. From about 1946 until 1974.

Q. During the period of approximately 1964 through 1974, what was your position?

A. I was the Security Coordinating Supervisor.

Q. And describe briefly what your responsibilities were.

A. There were approximately nine squads of agents, roughly 200 men on these nine squads, and I had the responsibility of coordinating the activities of these squads.

Q. Did these squads have number or letter designations?

A. Yes.

Q What were those designations?

A. Well, they changed from time to time, but generally speaking, they were S-1 through S-9.

Q. And what did S stand for?

A. Security.

Q. And was there another coordinator comparable to you in the Washington Field Office?

A. Yes, sir.

Q. And what was the title of that position?

A. Well, he would have been the Criminal Coordinating Supervisor.

Q. And were there any other coordinators?

A. No.

Q. Were you the immediate subordinate to the special agent in charge?

A. Yes.

Q. And was the other coordinator in a comparable position of authority?

A. Yes.

Q. With respect to security matters, would it be fair to say that you were second in command of the Washington Field office?

A. Yes.

THE COURT: Those leading questions are not objectionable, but I caution you when you get to matters that are of formality to return to the regular procedure.

MR. SCHEMBER: Very well, Your Honor.

BY MR. SCHEMBER:

Q. Mr. Jones, what were the responsibilities of Squad S-7?

A. S-7's primary responsibility concerned the investigations of a New Left threat.

Q. Take a moment to get a drink of water.

A. All right.

Q. And what were the responsibilities of Squad S-5?

A. I believe that was called the Extremist Squad.

Q. Did Squad S-5 conduct racial matter investigations?

A. Yes.

Q. Which squads had responsibility for the implementation of counterintelligence programs?

A. I'm not sure if there was one -- well, I'm not sure if there was one program or two programs. I know that there was one on S-7.

Q. Do you recall the name of that program?

A. COINTELPRO.

Q. Was there more than one COINTELPRO?

A. There could have been.

Q. Mr. Jones, I've placed before you an exhibit marked for identification as Plaintiffs' Exhibit 1. I realize that's a little difficult to read. Do you recognize that document?

A. This is dated August 19 -- looks like '67. I probably saw it.

Q. What is the heading of that document? Can you read it?

A. Probably. Counterintelligence Program - Black Nationalist - Hate Groups, Internal Security.

Q. Is that title familiar to you?

A. Yes.

Q. What was the purpose of that program?

A. The second paragraph of this communication says, "The purpose of this new counterintelligence endeavor is to expose, disrupt, misdirect, discredit or otherwise neutralize the activities of black nationalist hate-type organizations and groupings, their leadership, spokesmen, membership, and supporters, and to counter their propensity for violence and civil disorder."

Q. Was this program a program carried out by the Washington Field Office?

A. Yes.

MR. SCHEMBER: Your Honor, at this time I would move Plaintiffs' Exhibit 1 into evidence.

MR. WHITE: No objection, Your Honor.

THE COURT: It is received.

(Plaintiffs' Exhibit No. 1 was received in evidence.)

BY MR. SCHEMBER:

Q. Mr. Jones, I've placed before you an exhibit marked for identification as Plaintiffs' Exhibit 2. Do you recognize that document?

A. I doubt that I have seen this. This is an internal memorandum at the Headquarters.

Q. Do you recognize the attachment to that document which immediately follows the first page?

A. I probably saw it. I can't say that I did, because my initials aren't on it.

Q. Mr. Jones, is there any indication that this document was sent to the Washington Field Office?

A. Yes, sir. It's included in the distribution count.

Q. Can you tell from the heading of the document whether this is a document that would have been sent to you in the normal course of the conduct of FBI business?

A. If this document was approved on the Headquarters level -- and I can't say that it was from what you have shown me -- and if it were sent to the Field Office, it, of course, would have been sent to me by the agent in charge.

Q. Can you tell from examining Plaintiffs' Exhibit 1 and Plaintiffs' Exhibit for identification 2 whether the contents are similar?

A. You're asking me to compare these two?

Q. Yes, that's correct.

A. And you want to know if the contents are similar?

Q. Yes.

A. Yes, I will check it.

Without spending a lot of time, it appears to me that the second document, the one to Mr. W. C. Sullivan, is probably an extension of the one sent to SAC Albany

dated August, 1967.

Q. And what is the date of the document you're referring to as the document spanning the program?

A. That is dated February 29, 1968.

Q. Is that the date of the internal communication that you said you didn't think you had seen before?

A. I didn't say that I don't think I saw it. I say I cannot say that I saw it because I don't see my initials on it. But I probably saw it, sir.

Q. Mr. Jones, calling your attention to the first page of the exhibit, the very first page of the exhibit for identification No. 2, what is the date of that document?

A. Okay, one of them says February 29, 1968, Mr. Schember. The other says March 4, 1968.

Q. And is the March 4 document the document that was sent to the Washington Field Office?

A. Yes, sir.

Q. And is this the document, the March 4 document, which expanded the program described in Plaintiffs' Exhibit 1?

A. That would be my guess.

Q. What was the -- what was the nature of the expansion? Was it an expansion in purpose or was it an expansion in scope or some other type of expansion?

A. I don't know. I'm just guessing, Mr. Schember,

because I haven't read all of this.

Q. You testified that in the normal course of FBI business you would have seen this March 4, 1968 document, is that correct?

A. Yes.

Q. May I call your attention to page 2 of the attachment, which is the March 4, '68 document. Page 2 of the March 4, '68 document.

Does that page -- does anything on that page refresh your recollection as to the type of expansion of the program that was contemplated by this memorandum?

THE COURT: Mr. Jones, you can take your time to read it.

THE WITNESS: Yes, I realize that, Your Honor.

I have no recollection of ever seeing this, but I cannot say that I did not see it, Mr. Schember.

THE COURT: That wasn't the question.

THE WITNESS: What is your question?

BY MR. SCHEMBER:

Q. My question is, Mr. Jones, whether there was anything on the second page of the March 4, '68 document which refreshes your recollection as to the nature of the expansion of the program that took place at that time?

A. No, sir.

Q. Can I call your attention to the very last paragraph

on that page.

A. Fine.

Q. Does that paragraph refresh your recollection as to the nature of the expansion of the program?

A. Are you referring to this paragraph? "The counterintelligence is now being expanded to include 41 offices."?

Q. Yes, sir. Is it your -- does that refresh your recollection as to the nature of the expansion of the program accomplished by this March 4, '68 document?

A. Well, that speaks for itself.

THE COURT: The question is whether it refreshes your recollection, Mr. Jones.

THE WITNESS: No, sir, it does not refresh my recollection.

THE COURT: You have answered his question.

THE WITNESS: Thank you, sir.

MR. SCHEMBER: Very well.

BY MR. SCHEMBER:

Q. Mr. Jones, you testified, did you not, that the Washington Field Office participated in the Black Nationalist counterintelligence program?

A. Yes, sir.

Q. Do you recall what the purposes of that program were? I'm asking you simply whether you recall today the

purposes of the program in general?

A. Basically, yes.

Q. Mr. Jones, was one of the purposes of that program --

THE COURT: You don't need to lead him.

BY MR. SCHEMBER:

Q. Mr. Jones, are the purposes of the Black Nationalist counterintelligence program accurately reflected on page 3 of the March 4, 1968 document?

A. You are speaking of the goals?

Q. Yes, Mr. Jones.

A. What was your question?

Q. As you recall the purposes of the Black Nationalist counterintelligence program, are those purposes accurate as you remember them, accurately reflected in page 3 of the March 4, 1968 memorandum that is before you?

A. I cannot answer that simply. May I, Your Honor, expand?

THE COURT: You have to answer his question, Mr. Jones. You have answered it. If he wants to cross-examine you now, he can.

BY MR. SCHEMBER:

Q. Mr. Jones, what was your answer?

A. I said I cannot answer that in a simple manner.

Q. Well, would you answer it in a manner that you

feel is adequate?

A. Yes, sir.

The August, 1967 document says that the purpose of this is such and such.

The 1968 document sets out certain goals, and the purpose and goals aren't necessarily the same.

Q. Mr. Jones, was one of the goals of the Black Nationalist counterintelligence program to prevent a coalition of militant black nationalist groups from emerging?

MR. WHITE: I object to that. I think the document speaks for itself.

THE COURT: You and he are disagreeing about the meaning of the word purpose, and -- meaning of the word purpose as distinguished from goals. If you can accommodate his answer by asking about goals, we will get this thing moving.

BY MR. SCHEMBER:

Q. Mr. Jones, does page 3 of the March 4, 1968 memorandum accurately reflect your memory of the goals of the Black Nationalist counterintelligence program?

MR. WHITE: Your Honor, I object to the question inasmuch as he testified that he has no recollection.

THE COURT: He didn't say that. He said purposes.

You can answer the question, Mr. Jones.

THE WITNESS: Would you repeat it, please.

Q. Does page 3 and continuing onto page 4 of the March 4, 1968 memorandum before you accurately reflect your memory of the goals of the Black Nationalist counterintelligence program?

A. I have no recollection of the memory of the goals of this program.

THE COURT: You may cross-examine, Mr. Schember.

BY MR. SCHEMBER:

Q. Was it not the goal of this program to prevent a coalition of black groups from emerging?

A. The goals are set forth on this communication, sir, and that is one of them.

Q. You testified that one of the purposes of this program was to counteract the propensity of black groups for violence, is that correct?

A. I don't know. Let me look and see.

"The purpose of this new counterintelligence endeavor is to expose, disrupt, misdirect, discredit or otherwise neutralize the activities of black nationalist hate-type organizations and groupings, the leadership, spokesmen, membership, and supporters, and to counter their propensity for violence and civil disorder."

Q. Was the prevention of violence the only goal of this program?

A. The only goal?

Q. The only purpose of the program, as you recall?

A. I have read it to you, sir, two times.

Q. Was one of the goals of this program to prevent black groups from gaining respectability?

A. It does not say that under this paragraph, which concerns the purpose, sir.

Q. Calling your attention to page 3 of the March 4, 1968 memorandum --

A. Okay.

Q. -- was one of the goals of this program to discredit black groups?

A. I don't see any place in this document where it says simply to discredit black groups, Mr. Schember.

Q. May I call your attention to page 3 of the March 4, 1968 memorandum, paragraph 4 at the bottom.

A. Yes, sir.

Q. Does that paragraph not say that one of the purposes of the program is to prevent these groups from gaining respectability by discrediting them?

MR. WHITE: Your Honor, I would request that counsel read -- if he's going to read from this document, that he read from it accurately in posing his question to the witness.

THE COURT: I think he did.

THE WITNESS: Sir, that says goals. It didn't

say the purpose.

BY MR. SCHEMBER:

Q. All right. Mr. Jones, was it not one of the goals of the Black Nationalist counterintelligence program to prevent the leaders of these groups from gaining respectability by discrediting them?

A. No. 4 says prevent militant black nationalist groups and leaders from gaining respectability by discrediting them into three separate segments in the community.

Q. What segments of the community were these leaders to be discredited?

A. I don't know.

Q. Does paragraph 4 indicate that, Mr. Jones?

A. If you wish me to read this, I will. You must --

Q. Did you read the paragraph, sir?

A. No, I haven't read it yet. It says, "You must discredit these groups and individuals to first, the responsible Negro community.

"Second, they must be discredited to the white community, both to the responsible community and to liberals who have vestiges of sympathy for militant black nationalists, simply because they are Negroes.

"Third, these groups must be discredited in the eyes of Negro radicals, the followers of the movement."

Q. And was one of the goals of this program, calling

your attention to paragraph 2 on page 3, to prevent the rise of a messiah?

A. Yes, sir.

Q. And does that paragraph refer to the kind of person whose rise was sought to be prevented by this program?

A. There are several names in that paragraph.

Q. What are the names, sir?

A. It says, ".. prevent the rise of a messiah who could unify..." -- this is one of the goals -- ".. prevent the rise of a messiah who could unify and electrify the militant black nationalist movement. Malcolm X might have been much a messiah. He is the martyr of the movement today. Martin Luther King, Stokely Carmichael and Elijah Muhammed all aspire to this position."

Q. Mr. Jones, what groups were the targets of the Black Nationalist counterintelligence program?

A. I suppose the militant groups.

Q. Was the Southern Christian Leadership Conference a militant group?

A. I don't think so.

Q. Was it the target of the Black Nationalist counterintelligence program?

A. I don't know.

Q. Drawing your attention to page 4 of the March 4, 1968 memorandum under the heading "Targets" --

MR. WHITE: Could we approach the bench for a moment?

THE COURT: Not until I get the answer.

BY MR. SCHEMBER:

Q. Is there indication under the heading of "Targets" that the Southern Christian Leadership Conference was a target under that program?

A. Yes, sir.

THE COURT: Do you want to approach the bench?

MR. WHITE: Yes.

(At the bench.)

MR. WHITE: Your Honor, I agree that it's entirely appropriate for this witness to testify about the document, but I am a little bit offended by the tone as if this witness is somehow responsible for the document.

THE COURT: I think the tone is provoked because he wasn't responsive to the direct question, and it was necessary to resort to cross-examination.

As I told Ms. Bonn, I am not responsible for the tone of counsel. I can control a lot of things, but I can't control people's tone of voice, sometimes including my own.

MR. WHITE: I understand that, Your Honor.

(Before the jury.)

BY MR. SCHEMBER:

Q. Mr. Jones, was the counterintelligence program --

the Black Nationalist counterintelligence program as implemented by the Washington Field office, limited to militant groups, Black Nationalist militant groups?

A. I don't remember. I would think so.

Q. Mr. Jones, was the Black United Front a target of the Black Nationalist counterintelligence program in Washington, D. C.?

A. I don't recall.

Q. Mr. Jones, you testified, did you not, that the Black Nationalist counterintelligence program was implemented in Washington, D. C.?

A. I did, yes.

Q. Was that program implemented under the instructions contained in this March 4, 1968 memorandum?

A. I presume so.

Q. And was it implemented in accordance or under the instructions of Plaintiffs' Exhibit 1, the August '67 memorandum?

Q. I presume so.

MR. SCHEMBER: Your Honor, at this time I would move Plaintiffs' Exhibit 2 into evidence.

MR. WHITE: Would this be the entire two documents as one exhibit, I would like to inquire, Your Honor?

MR. SCHEMBER: Yes. I could ask one other question, Your Honor, before I move the exhibit into evidence.

BY MR. SCHEMBER:

Q. Mr. Jones, calling your attention to the very first page of Plaintiffs' Exhibit marked for identification No. 2, the February 29, 1968 document, is that an official FBI record?

A. You are asking me about the first or --

Q. The very first page. Is that an official FBI document?

A. It appears to be.

Q. Is the subject matter of that document similar to the subject matter of the attached March 4, 1968 document?

A. Yes, it is.

MR. SCHEMBER: Your Honor, at this time I would move Plaintiffs' Exhibit 2 into evidence.

MR. WHITE: I have no objection, Your Honor, but I would request that they be identified as separate documents.

THE COURT: Yes. Why don't you mark the September 29 document as, shall we say, Plaintiffs' 2A and the March 4, 1968 document as Plaintiffs' 2B. So mark them and receive them.

THE CLERK: Plaintiffs' 2A and 2B received in evidence.

(Plaintiffs' Exhibits 2A and 2B were received in evidence.)

THE COURT: Would counsel come to the bench for a moment, please?

(At the bench.)

THE COURT: I should say this on the record, but I don't want you to all draw any inference from it. I feel like I have a duty to the administration of the case and to the people involved to say this because it's crossing my mind. I remember Mr. Jones claimed that he didn't have counsel. I hope that he understands that a witness is responsible for a deliberately false statement that he doesn't recall as he is for a deliberately false statement that affirmatively states something that isn't true. I don't want this thing to escalate.

MR. WHITE: We are talking about documents written 13 years ago.

THE COURT: I understand. Believe me, I don't mean to challenge his statements now or any other time, but I am remembering that he was in here through counsel saying that he hadn't had personal counsel, and he hadn't been in this thing, perhaps, when you were giving -- I raise the question to you as his lawyer acting on my order that denied your motion to withdraw when the thing was in basic training. I am making that point.

If you want to take a recess, you can. Please understand I am not saying that he does recall. I am saying

that if I had a client in a situation that he is in, being asked to testify about this long ago and understanding my own ability to forget, I would still think a layman should have that advice.

MR. WHITE: Your Honor, I have not advised him on that particular point. However, we have been over these documents.

THE COURT: Okay.

MR. WHITE: And we have prepared for this testimony.

THE COURT: Fine. Thank you.

Mr. Schember, I don't want you to go anywhere with this remark that I made. I don't want you to start using this in cross-examination or anything else. I am having you as a party to a conversation that I am having with Mr. White as an officer of the court who moved to withdraw, and is in the case because I ordered him to be. This is not germane to the proceedings themselves. Do you understand?

MR. SCHEMBER: Yes, sir.

(Before the jury.)

BY MR. SCHEMBER:

Q. Mr. Jones, do you recall which squad in the Washington Field Office was responsible for carrying out the Black Nationalist counterintelligence program, if any

one squad was?

A. It should have been Squad S-5.

Q. Mr. Jones, I have just placed before you Plaintiffs' Exhibit in evidence No. 3. This exhibit consists of two documents, one dated 5-9-68 and the other dated 5-10-68. Have you seen either one of these documents before?

A. I don't think I have seen the cover letter because that is an internal document at the Headquarters.

As to the second, let me read it.

I feel certain that I have seen it.

Q. Mr. Jones, does the document dated 5-10-68 refresh your recollection as to whether there was more than one counterintelligence program?

A. Yes.

Q. Was there more than one counterintelligence program?

A. One was for the New Left and one was for the Black Nationalist Movement.

Q. Which squad, if any, was responsible for implementing the New Left counterintelligence program in the Washington Field Office?

A. Squad S-7.

Q. And what was the purpose of the New Left counterintelligence program?

A. Shall I read it to you?

THE COURT: I think the correct process is to ask

him if he has a present recollection.

MR. SCHEMER: Yes, Your Honor, that was my next question.

BY MR. SCHEMER:

Q. Do you recall at this time, Mr. Jones, what the purpose of that program was?

A. The purpose, basically, was to disrupt or -- and/or, I guess, neutralize the elements in this New Left area that were prone to violence and burning buildings and fire bombing and so forth.

Q. Mr. Jones, was the program limited to those groups or was it applied as well to nonviolent groups?

A. I would have to read this to answer you.

THE COURT: Ask the question --

THE WITNESS: I don't remember specifically all the purposes of the program, Mr. Schember.

BY MR. SCHEMBER:

Q. Well, my question, sir, is whether or not the targets of the program were limited to violence-prone groups involved in burnings and bombings or whether the program was also applied to nonviolent groups, if you know now.

THE COURT: If you recall now.

THE WITNESS: I don't recall the purpose as specified in this piece of paper, Mr. Schember.

Q. My question was do you recall the range of targets in the program?

THE COURT: No, your question was did the purpose include groups other than those prone to violence.

MR. SCHEMBER: I stand correct.

BY MR. SCHEMBER:

Q. Could you answer that question, Mr. Jones?

A. It is my recollection that the targets of this program were those who were already known to have a propensity to -- for violence, and could have a -- could be prone to engage in violence.

Q. Mr. Jones, what criteria did you use to determine groups that could be prone to violence?

A. Mr. Schember, I did not use any criteria. I was not the squad supervisor of this program. I supervised nine different squads.

THE COURT: You should have asked first did he know of a criteria, Mr. Schember.

MR. SCHEMBER: Very well, Your Honor.

BY MR. SCHEMBER:

Q. Mr. Jones, you were, nonetheless, the supervisor of the supervisor of Squads S-5 and S-7, were you not?

A. Yes, sir.

Q. Were the -- in your capacity as the supervisor of those supervisors, what, in general, would be the nature

or the matters that would be brought to your personal attention with respect to matters involving Squads S-5 and S-7?

A. I saw all the incoming mail from the FBI Headquarters, and then matters that either I deemed of interest or the supervisor deemed of interest were referred to me.

Q. When you say "of interest", what do you mean by that?

A. I mean exactly what I say. If I felt that the subject matter was important enough that I as a Security Coordinator Supervisor should know about it, I instructed the supervisor to let me see the mail. Or if the supervisor came on to something during his carrying out of his duties that he felt I should know, he would also see to it that I saw it.

Q. Mr. Jones, were counterintelligence program matters important matters that were customarily referred to your personal attention?

A. Sometimes, yes, sometimes, no.

Q. Mr. Jones, I have placed before you a copy of Plaintiffs' Exhibit 16 in evidence. Do you recognize the name of the special agent that appears at the top of that document?

A. Yes, I do.

Q. What is that name?

A. SA for special agent, Wilfred R. Schlarman, S-c-h-l-a-r-m-a-n.

Q. And what is the date of that document?

A. January 21, 1969.

Q. And at that time was Mr. Schlarman a subordinate of yours?

A. Yes, sir.

Q. What was his position?

A. I don't remember precisely.

Q. But you recall that he was a subordinate of yours?

A. Yes, sir.

Q. Do you recall the subject matter of that exhibit, Plaintiffs' Exhibit 16, ever being brought to your attention?

A. No, I don't.

Q. Mr. Jones, I've placed before you Plaintiffs' Exhibits 20-1 through 20-4 in evidence. And that particular copy also bears the sticker 20-A. Do your initials appear on the first page of that document?

A. Yes, sir.

Q. Where do they appear, sir?

A. They appear to the left of "From: SAC", meaning special agent in charge, "WFO".

Q. And what is the significance of the appearance

of your initials at that place on the document?

A. It means that the supervisor of this issue referred this mail to me and I signed it out. And from my desk, it was sent to the FBI Headquarters.

Q. Mr. Jones, would you turn to 20-3.

A. Yes, sir.

Q. Does that document bear your initials?

A. Yes, sir.

Q. And what is the significance of your initials on that document?

A. Since it appears down at the bottom of the page, it would appear that someone else signed it out. But I saw this document -- oh, excuse me, excuse me. This is a Field Office copy.

It would appear that I approved this, and I signed it out.

Q. Do you recall seeing this particular document at the time that you signed it out?

A. No, sir.

Q. Are you familiar with the subject matter of the document?

A. I am familiar with COINTELPRO against Black Nationalist hate groups, yes, sir.

Q. Are you familiar with the specific subject of the memorandum from your own independent recollection?

A. No, sir.

Q. Mr. Jones, in the late summer and early fall of 1969 were you aware of a dispute between the Black United Front and the New Mobilization Committee to End the War in Vietnam over whether the Black United Front would support a demonstration against the war that fall?

A. I had no recollection of this until last evening when I read this.

Q. Does that document refresh your recollection of the subject matter of that issue?

A. Not really. I have no independent recollection of this, Mr. Schember.

Q. Is that subject matter a kind of important issue that would in the normal course of conducting Washington Field Office affairs have been brought to your attention as the Security Coordinator?

MR. WHITE: Your Honor, he testified that this came to his attention. I don't understand the question.

THE COURT: I do, and the objection is overruled.

THE WITNESS: It was brought to my attention by the fact that I read it and signed it out, Mr. Schember. It was the type of material that I asked the supervisor to keep me informed of.

BY MR. SCHEMBER:

Q. What was your reason for asking the supervisor

to keep you informed of this type of matter?

A. Because this was a Bureau-sponsored program. Some 40-some offices were engaged in this program, and since this was different, -- this was a bit unusual, quite unusual -- I wanted to know what the agents in the Field Office were doing in this area.

Q. Did you consider most counterintelligence program matters sufficiently important to warrant your personal attention?

A. Yes, as a rule. That doesn't mean that I saw everything or that I had part in every decision making. That was probably at the discretion of the supervisor.

Q. Mr. Jones, I have placed before you Exhibits 21-2 through 21-8. Have you seen any of those documents before?

A. My initials appear on 21-1, so I obviously saw it. And I would have seen the accompanying letterhead memorandum, which is 21-2, 21-3.

I also saw 21-4, which has my C. J. on it, my initials. And I signed out from the Field Office document 21-5, which is the cover and communication for 21-6, so I assume that I saw it. And 21-7 is the second page to it, and 21-8 is the third page to it.

I have to assume that I have seen all of these pieces of paper, Mr. Schember.

Q. Referring to 21-4, what is that?

A. 21-4 is in the FBI parlance a letterhead memorandum entitled "Member of BUF Expresses Shock at Hobson's Stand".

Q. Is this a memorandum from someone in the FBI to someone else in the FBI?

A. The copy count says one to the Bureau and two to WFO with the file numbers at our office, WFO.

Q. Mr. Jones, is 21-4 written in the form of a news release?

A. Page 1 -- rather, correction, the second -- the third -- I'll start all over again.

The second paragraph of 21-1 says, "Enclosed to the Bureau are two separate news releases regarding the BUF."

Q. Mr. Jones, what was the --

THE COURT: Have you gotten an answer to your question if it was written in the form of a news release?

THE WITNESS: I am not familiar with that form. I would have to assume that they are, Your Honor.

BY MR. SCHEMBER:

Q. Mr. Jones, while you are on 21-1, that memorandum bears your initials, does it not?

A. Yes, sir.

Q. What was the purpose of that memorandum?

A. It was -- are you speaking of 21-1?

Q. That's correct.

A. A cursory glance at it, appears to be a transmittal letter or communication, "Enclosed to the Bureau, two separate news releases regarding the BUF." And it goes on to suggest that they be released.

Q. And what is the suggested purpose of their release?

A. It says that the Bureau is aware of the timing of the release of these stories is of paramount importance, and the number one story should be released immediately after the BUF confronts the church groups and while the story is still fresh in the minds of the public.

Q. Mr. Jones, doesn't the third paragraph of that memorandum indicate as well the purpose of the release?

A. I don't know. I haven't read that yet.

It says, "WFO is of the opinion that the release of either of these items would result in acute embarrassment to the BUF and cause internal dissention within its ranks. It will, in all probability, cause black leaders to view each other with suspicion and could possibly result in Julius Hobson resigning from the BUF."

Q. Was the purpose of this memorandum to recommend an action to accomplish that result?

A. That I don't know. Whoever offered this communication expressed an opinion here.

Q. Mr. Jones, who was the author of that document?

A. H. G. E., who is probably Harry Ervin, E-r-w -- I'm sorry.

Q. Could it be Harry Ervin?

A. Yes, sir. E-r-v-i-n, I believe.

Q. In October of '69 was Mr. Ervin a subordinate of yours?

A. Yes, sir.

Q. Mr. Jones, you have referred I believe on two occasions to your signing out of the document. What do you mean by the signing out of the document?

A. Mail from the Field Office could not leave until an approved supervisor "signed it out." That is what it means.

Q. So it --

A. It means that the mail goes -- I think I said that -- that the mail goes from my desk to the mail room and then it is sent over to the Bureau or to whomever it was directed.

Q. So where your initials appear handwritten next to the word "from" on these various documents, does that indicate your approval of the transmission of that document from the Field Office to Headquarters?

A. Yes, sir.

Q. Mr. Jones, I place before you Plaintiffs' Exhibits in evidence 23, 24, and 25. Calling your attention

to Plaintiffs' Exhibit 23, I would ask you, first of all, to in your handling of that document to make sure that you do not hold the attachment to 23 in a manner where it can be seen by the jury. Just keep it to yourself, but examine it --

A. Yes, sir.

Q. -- at various points.

Mr. Jones, what is Plaintiffs' Exhibit 23?

A. It's a communication from the special agent in charge of the New York Office to the Director of the FBI, subject matter is COINTELPRO - New Left with two copies to the Bureau and one copy for New York.

Q. Is that a memorandum which proposes a counterintelligence program action?

A. Yes.

Q. Mr. Jones, calling your attention to Plaintiffs' Exhibit 24 --

A. Yes, sir. Okay --

MR. WHITE: Your Honor, I would like to object to that with regard to the integrity of Plaintiffs' Exhibit 23. There was no question as to whether he had ever seen this document before.

MR. SCHEMBER: Your Honor, I asked him whether he could recognize in his experience as an FBI agent a proposal for a counterintelligence program action. That

was the scope of my question. I'm moving on.

THE COURT: Do you have an objection?

MR. WHITE: I object in that I believe the issue is confused as to -- may we approach the bench?

THE COURT: No, it's not necessary. If you have an objection to the admissibility, that's overruled.

Go ahead.

BY MR. SCHEMBER:

Q. Mr. Jones, is Plaintiffs' Exhibit 4 -- what is that, 4?

Excuse me. I'm sorry, Mr. Jones.

What is Plaintiffs' Exhibit 24?

A. From my experience as a supervisor in the Washington Field Office, I would conclude that this is a communication addressed to the special agent in charge in New York from the Director of the FBI entitled COINTELPRO - New Left.

Q. Does Plaintiffs' Exhibit 24 indicate a grant of FBI Headquarters authority to implement the proposal reflected in Plaintiffs' Exhibit 23?

A. Yes, it does.

Q. Mr. Jones, would you look at Plaintiffs' Exhibit 25.

A. Okay.

Q. What is that?

A. It is a communication from the special agent

in charge, New York to the special agent in charge, Washington Field. Two copies for our office, WFO and one copy for New York. It's entitled COINTELPRO - New Left, and it's dated 10-24-69.

Q. Does Plaintiffs' Exhibit 25 refer to the subject matter of Plaintiffs' Exhibits 24 and 23?

A. Yes, it does.

Q. Is Plaintiffs' Exhibit 25 a memorandum of transmittal of the attachment to Plaintiffs' Exhibit 23 from New York to Washington?

A. Probably. It would appear so, yes. It would appear so.

Q. Mr. Jones, calling your attention to the lower right-hand corner of Plaintiffs' Exhibit 25 --

A. Yes, sir.

Q. -- there appears to be a rectangle there with some printed and handwritten writing. What is that rectangle? Can you tell what I'm referring to?

A. I think you are referring to the rectangle below -- that's 157-12, such and such?

Q. That's correct, sir. What is that?

A. That is a stamp. It's a block stamp that is put on mail to show the date that it was received, and this block stamp is also used for a routing of mail to agents. And after the agent has seen the mail and taken

action, he is supposed to put his initials in that block stamp.

Q. Can you tell from examining that block stamp whether that block stamp was placed on the document in New York or Washington or some other place?

A. Yes. This is the block stamp of our office, Washington Field Office.

Q. And this document is headed counterintelligence -- excuse me -- COINTELPRO - New Left?

A. That is correct.

Q. And was this document routed to a subordinate of yours?

A. Yes.

Q. Which one?

A. It says Wall, W-a-l-l.

Q. And where does Mr. Wall's name appear?

A. His name appears in the place for routing mail.

Q. Does his name appear in the block stamp?

A. Yes.

Q. What is the significance of his name appearing in the block stamp, based upon your experience as an FBI supervising agent?

A. It was routed to him for action. He had the responsibility for this action.

Q. Responsibility to implement the action recommended

in the memorandum, Plaintiffs' Exhibit 25?

A. Yes.

MR. WHITE: I object to the form of the question even though it has been answered. The document does not recommend an action. It directs an action.

BY MR. SCHEMBER:

Q. Mr. Jones, does the significance of Mr. Wall's name in the block stamp -- is the significance of that --

THE COURT: Why don't you ask him what the significance is?

BY MR. SCHEMBER:

Q. Mr. Jones, would you tell us what the significance of Mr. Wall's name in the block stamp is, in light of the context of this document, Plaintiffs' Exhibit 25?

A. Let me explain it. This is not my handwriting. So this piece of mail would have been sent to the --

THE COURT: The question was what was the significance of Mr. Wall's name appearing in the block stamp, if you can answer that.

THE WITNESS: I understand, sir. Maybe I can -- I'll make it short.

Someone routed this mail to Bob Wall, presumably to take action, as required in this letter.

BY MR. SCHEMBER:

Q. Mr. Jones, I've placed before you Plaintiffs'

Exhibit 27. Do you recognize that document and the attachment?

A. I do.

Q. What is that?

A. This is a memorandum from our office, SAC-WFO, to the Director of the FBI, subject matter: COINTELPRO - New Left. It's dated October 9, 1969, and there is an attachment to it.

Q. Is that a request for Headquarters approval for the implementation of a counterintelligence program action?

A. Yes.

Q. Do your initials appear on that document?

A. Yes.

Q. Where do they appear, sir?

A. Up by "SAC-WFO".

I approved this piece of paper and signed it out, and from my desk it was sent to FBI Headquarters.

Q. Do you recall, Mr. Jones, whether the proposal suggested in that document was implemented?

A. No.

Q. Would you care to examine the document further to help answer that question?

A. I was in the courtroom this afternoon when Mr. Gerry Grimaldi testified, and he said it was implemented, so obviously it was certainly implemented.

Q. Mr. Jones, I have placed before you --

MR. SCHEMBER: Your Honor, I have just noticed the time. This would be -- I'm moving on to a different subject, and this would be an appropriate time to adjourn.

THE COURT: Why don't we adjourn until tomorrow morning.

Ladies and gentlemen, I haven't reminded you in a long time about not talking to anybody about this case -- I hope you haven't done that -- or to each other. And I should caution you again that if anything should appear on television or in the press about this case, try -- if you notice it -- try to disregard it. If you have noticed it, it's your duty to bring that fact to the attention of the Marshal so he can bring it to my attention and we can examine you about it.

Now, tomorrow we are not convening in the morning. We convene at 1:45. So you are on your own in the morning. But 1:45 is just as much a time to be here as 9:30 was, so don't be late. Thank you very much.

(Whereupon, the jury was excused for the day.)

(Jury not present.)

THE COURT: How many of you -- you may sit down. How many lawyers are going to be involved in this conference on the documents? I'm just trying to decide whether to have it out here. Would you normally take this stuff off

the table tonight?

MR. WHITE: Yes, Your Honor.

THE COURT: Well, why don't you do that, and we will use one of the tables as a conference table, and we'll reconvene in about 10 minutes.

MR. SCHEMBER: Yes, Your Honor.

THE COURT: You can toss a coin as to which table to use.

MS. BONN: Your Honor, may we have 15 minutes?

THE COURT: 15 minutes, of course.

(Whereupon, a short recess was taken.)

(Jury not present.)

THE COURT: Why don't we do as much as we can of what Mr. Brooks has today, because you are here, and if we don't get through with the Church Committee and other things that you aren't involved in too much -- maybe you are.

MR. BROOKS: Church Committee?

THE COURT: There is a dispute about which extraction --

MR. BROOKS: I am vaguely familiar on that.

THE COURT: You are not here to represent the District on that?

MS. BONN: No, Your Honor.

THE COURT: There is a controversy about Plaintiffs'

Exhibit 88, which I believe involves --

MS. BONN: May I make a statement for the record?

THE COURT: Yes.

MS. BONN: I have gone over all the redactions that were released pursuant to your order -- on the December 1 order. Although Mr. Brooks is here, I represent the District of Columbia and have reviewed all the redactions.

THE COURT: Well, I am delighted. Let me deal with that. Are you satisfied that you have received the material that they agreed to release?

MR. SCHEMBER: We have agreed to receive the material that they -- as I understand, Your Honor's order was either to release or submit an affidavit in camera.

MR. BROOKS: There were two things: the Marcum statement on pages 8 and 9, and we submitted an in camera memorandum.

THE COURT: What about the things you said you were going to release?

MR. BROOKS: There were alternatives suggested to the Court, and it was a question as to which of the alternatives--as to which of the ways those alternatives were redacted.

THE COURT: Let me see. That is not quite the question I have. Let me see if I can get my -- there were some things that you said, I guess -- this is an in camera

affidavit.

MS. BONN: Your Honor, --

THE COURT: There are some things in here that you said that you were going to furnish to the Plaintiffs.

MR. BROOKS: Right. Everything other than 8 and 9 have been furnished.

THE COURT: Do you know what they are?

MR. SCHEMBER: I received a packet of materials, Your Honor. I have not seen the affidavit. I can't compare the packet to the affidavit.

THE COURT: How can we do that? Can you tell me what you have received?

MR. SCHEMBER: My packet was borrowed by the Defendants to make more copies 10 minutes ago.

THE COURT: I will take their representation --

MS. BONN: I would represent that we reviewed these.

MR. BROOKS: I can put on the record the exact pages --

THE COURT: If you can be careful about it. We had one oversight, and I wanted to make sure there were no oversights.

MR. BROOKS: There were none.

MS. BONN: We checked it out.

THE COURT: This is reference to page 8 of the

Marcum statement.

MR. BROOKS: 8 and 9 are two versions being offered to the Court; the Department and District is in preference to one -- certain identifiers we have submitted two different versions for the Court --

THE COURT: I have the "B" and not the "A" and I am off base.

MS. BONN: I can submit to the Court an "A". I have an extra copy.

THE COURT: Thank you.

Would you come around and whisper in my ear the difference.

This can be on the record.

MR. BROOKS: These are two of the same thing.

THE COURT: So where is "A"?

MR. BROOKS: This is the same thing.

THE COURT: Here you go, here you go, here you go.

MS. BONN: Perhaps take a copy of that.

THE COURT: That is the next page.

MR. BROOKS: I think we have a confusion.

THE COURT: That is "B"?

MR. BROOKS: This is "B" and this is "A" here. "B" contains this reference, but over here, as compared to her specifically -- wait a minute. This is two page

8's.

THE COURT: This is awful work.

MR. BROOKS: As compared to this side, where this particular statement has to be left out, although the first portion is because this coupled with the other would identify the informant. This, of course, --

THE COURT: This is "A" and this is "B". You prefer "B"?

MR. BROOKS: We prefer this that leaves this information, but unfortunately, that would cut out this portion of it.

THE COURT: Well, that is the thing that I think ought to be released.

MR. BROOKS: I understand Your Honor's concern, and that is why we proposed an alternative.

THE COURT: I will ask you to release "B".

MS. BONN: We will release "B" and are prepared to release it today.

THE COURT: Is there anything else now that you --

MR. BROOKS: That is all of the first order. We are still working on the second order.

THE COURT: Have you got my copy or --

MS. BONN: You have one of mine.

MR. BROOKS: This, I know, was filed with you. I believe this is hers.

THE COURT: Let me clear this. There is a statement in there that identifies the New Mobe by name. I want you to have the copy that includes that. That is the thing in there.

MS. BONN: I can tender that at the close of this meeting.

THE COURT: Well, let's turn to -- one thing: in the Acree transcript there are references to -- on page 74 and page 75. Is this unredacted?

Ms. Bonn, on page 73 and 75 of your unredacted transcript -- why don't you come here and look at mine. Come around here.

My question is whether those could be phonetic -- the stenographer's phonetic spelling of a Plaintiff's name.

MS. BONN: May I see that?

THE COURT: Sure, and the other one is here. I got the impression from the context that it was.

MR. BROOKS: That one could be.

THE COURT: Do you want to check it? Let me know tomorrow afternoon.

MR. BROOKS: Yes.

MS. BONN: 73 and 75?

THE COURT: You see what I mean?

MS. BONN: Yes, Your Honor. We will check that and let you know.

THE COURT: Now, 88 -- it's a Marcum transcript, but the Federal Defendants are raising the problem about it, and maybe you would like to address it.

MS. BONN: May I place on the record that we are going to raise the same objection with respect to the Marcum.

THE COURT: Who wants to respond?

MS. BONN: Perhaps Mr. White wants to.

THE COURT: I am addressing Mr. White's memo.

MR. SCHEMBER: Yes, sir.

THE COURT: Let me give you where I am, and then you tell me why I am wrong, if I am. I think that the statements that are at issue are admissions against interest, and in that sense, if that were the only question, would be admissible. But the fact that they are admissions against interest doesn't make the double hearsay in them admissible as proof of the facts that are elicited as hearsay. Do you follow me?

So part of this is admissible and part of it isn't.

MR. WHITE: I want to be sure, Your Honor, that I understand what statements you are referring to when you say it's a statement against interest. If you are talking about the Marcum statement as a whole, then I have a response to that. But if we are talking --

THE COURT: The fact that he was given immunity doesn't make it any less an admission against interest in my view. Is that wrong? Do you have some authority to the contrary when he has civil liability and embarrassment?

MR. WHITE: The admission against interest rule is broad enough to indicate that it doesn't apply only to penal interest.

I think the grant of immunity makes it clear here that he is not making statements against his interests. However, it could be said that this is a statement against interest regarding civil liabilities. However, in order for it to be construed as such a statement, Marcum must have understood that there was such an interest at stake. I have seen an annotation, but --

THE COURT: Was this statement made after this suit was filed?

MR. WHITE: It was made in 1974.

THE COURT: Well, you see, we can't examine Marcum on that because he is over the hill.

MR. WHITE: I realize that, Your Honor. I have seen an annotation, and I do not have the case citation indicating that instance where a person was -- I am not sure it was immunity, but there was some grant making it clear that the statement was not against a certain kind of interest, and then the Court held that it was -- that

No address for Marcum

it's not clear that the declarant was aware that the statement could have been against interest of civil liability.

THE COURT: I think I can infer from his unexplained absence that there is something that he feels burned about, so I rule that it was --

MS. BONN: May I address that point? He is not a named Defendant.

THE COURT: I understand that.

MS. BONN: He is no longer an employee of the Metropolitan Police Department. We don't know where he lives or where he resides.

THE COURT: Which is strange to me. I understood that. I had the Secret Service in here once tell me they couldn't find a Secret Service agent.

MR. WHITE: All I can say in response to that, Your Honor, is I guess the services don't keep track of everybody all the time.

THE COURT: If they can't find their own folks, how will they find somebody that really doesn't want to be found? I am ruling on that. That is an admission against interest by Marcum.

There still remains a problem about the double hearsay.

MR. WHITE: Our objection with regard to that is noted, is that correct?

THE COURT: Of course. This is what the record is for. You have made an objection, and I am overruling it. That is as clear as it can be. Again, I may revise it when the thing comes in.

Sometimes when I rule on these things in the abstract I don't see it as clearly as I do when I am confronted right here in the crucible with the issue. Put it this way: my tentative ruling -- which if I don't change it, and you have noted your objection and privilege to get me chastised in the Court of Appeals for it, is -- insofar as the objection is based on a traverse of the Plaintiffs' claim that the statement attributed to the witness was an admission against interest, that objection is overruled.

Now, as to whether there is hearsay in here and if so, what to do about it, again let's wait until we get to the water's edge on this, but my impression -- and without deciding which part of it is hearsay -- and maybe you can all agree -- the part that is hearsay is admissible not for the truth of the assertion, but for the fact that somebody said it to him.

Mr. Schember has an opportunity to produce the witness or the deposition of the witness who said that, who Marcum attributes the statement to. If you can demonstrate that you can't produce that witness, then I will revise it, whether the hearsay is the best evidence. Do

you follow me?

MR. SCHEMBER: I would state for the record that the excerpts that we have selected are competent for proof of the truth of the matter asserted.

In excerpt 29 we propose to have read to the jury agent Grimaldi and agent Mahoney got a cash bonus --

THE COURT: I am talking about Exhibit 88. Are we talking about the same thing?

MR. SCHEMBER: Yes, sir.

MR. WHITE: He is discussing the two pages attached to my --

THE COURT: Page 30? What is your point?

MR. SCHEMBER: On line 12 the portion which says agent Grimaldi and agent Mahoney got a cash bonus for it, and they were joking and said, "It's a damn shame you didn't get any cash for it." Mr. Grimaldi is a party here.

THE COURT: That is correct.

MR. SCHEMBER: This is not hearsay under the rule.

THE COURT: With Grimaldi you are right.

MR. WHITE: I am sorry to interrupt. This doesn't say that Grimaldi said to Marcum, "It's a damn shame." The whole context of this paragraph is that Marcum was told by someone that Grimaldi said that. This is not a direct statement by Grimldi to Marcum.

The following paragraph about a statement made by Mahoney to Marcum was -- that might be an admission against interest, except for the fact that it's an ambiguous statement. I am not going to dispute it on that point, but the Grimaldi statement was not a statement made to Marcum.

MR. SCHEMBER: That is a disputed point of the characterization of the transcript. I appreciate the point of law --

THE COURT: Do you claim that it was made to Marcum?

MR. SCHEMBER: That is what the context says to us, Your Honor.

MR. WHITE: It seems to me that would have been easy to establish today, Your Honor, when Mr. Grimaldi was on the stand.

THE COURT: Are you going to call Suter and Acree?

MR. SCHEMBER: Yes, sir.

THE COURT: Why don't you examine them about this and then I will revise it.

MS. BONN: Does the Court have page 29? I think that is where it begins.

THE COURT: Yes.

MS. BONN: Then he heard it again from Charley Robinson and then I believe John Zelloe. I would have

to agree with Mr. White's --

THE COURT: Let's go at it this way: When you examine Suter, you can examine him about this. If he denies it, you can confront him with this.

MR. SCHEMBER: Your Honor, I would note that he is reporting -- Mr. Marcum is relating what occurred at a party at Dankers. On page 31 he is asked --

THE COURT: I don't have 31.

MR. SCHEMBER: The next page, he says -- the question is, "Was there anybody else who was, well, a party to that conversation besides you and Mahoney?"

The question also becomes whether the party is several months later at which both Grimaldi and Mahoney are allegedly speaking or whether the time -- well, arguably there are two separate occasions, one where Grimaldi and Mahoney are speaking together, and a separate occasion where Mahoney said --

THE COURT: I will tell you again. You are going to have Suter and Acree?

MR. SCHEMBER: Yes.

THE COURT: You start with that, and then we will revise it after that. If they don't cough it up, you can confront them and then we will see what else happens.

MR. SCHEMBER: If it's triple hearsay -- if Marcum is saying that Suter said that Grimaldi and Mahoney

said we have a co-conspiratory statement, and a statement against interest, and those statements are not hearsay under the --

THE COURT: Co-conspirator's statement to some third party? The best way to play golf is up the middle of the fairway. Go with Suter and then if you don't get it that way, then we will try these fancy shots.

MR. SCHEMBER: Very well, sir.

THE COURT: All right.

Have you had a chance to deal with the material that I circulated yesterday?

MR. BROOKS: I have gone through a few pages, but I didn't have a chance to go through the -- I will finish it tonight.

THE COURT: We will table that for the moment.

Is there anything else on your agenda, on the District's agenda that you would like and that you need -- that I need to confront or either side on the things that relate to the Winkleman material that isn't either the subject of what has already been dealt with by order or is in the order that was circulated yesterday, something you need tomorrow or before we can get around to this again?

MR. SCHEMBER: Not tomorrow.

THE COURT: Okay.

MR. SCHEMBER: I do need clarification of Your

Honor's ruling.

THE COURT: On this?

MR. SCHEMBER: On this portion of the Marcum transcript.

Am I precluded from getting in on page 29 the part which says -- any of this part which refers to Marcum's understanding that the documents were given to the FBI -- the part which says, "I was told that by George Suter and Jack Acree." Am I precluded from getting that in?

THE COURT: I am not saying you are precluded from it. I am saying that I would like you to ask them first before you use this.

MR. SCHEMBER: Before I use the transcript in any respect?

THE COURT: On things that if they could testify to directly.

MS. PILSBURY: Then if Mr. Suter denies this, we can use this transcript --

THE COURT: Then you can confront him. That is something that I will deal with in time. Put it this way: I am not precluding this. All I am saying is until you have exhausted this remedy of getting it in straight, I would rather you didn't use this.

MR. SCHEMBER: I understand, sir.

MS. BONN: I have another point, Your Honor, to

raise, not with respect to this, but with respect to the Winkleman report. I believe there is still an issue outstanding to the difference between how the factual findings will be treated and how the statements will be treated, and whether, in fact, the factual findings will be admitted under one of the hearsay --

THE COURT: Well, without identifying what are factual findings, which is something I was going to deal with and get my basic training in, I think the Winkleman report rises to the dignity of something which a finding of fact is admissible under that subparagraph 18 without saying what is a finding of fact.

Now, on that, I would appreciate it if you would all -- would war about that and bring your unresolved disputes to me.

That is where I will end up with the Church Committee.

The Winkleman findings are one thing. The admissions against interest are something else. Hearsay is the third thing.

MS. BONN: My one last question deals with the order that we are presently under. I believe that our submissions are due by the close of business on the 4th. It didn't specify 9:00, and we would need the whole day to get them in. Thank you.

R.266

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

JULIUS HOBSON, et al., :

Plaintiffs, :

v. : CA No. 76-1326

JERRY WILSON, et al., :

Defendants. : Vol. 3

Washington, D. C.

Thursday, December 3, 1981

The above-entitled matter came on for trial before the HONORABLE LOUIS F. OBERDORFER, United States District Court Judge, in Courtroom No. 3.

APPEARANCES:

On Behalf of the Plaintiffs:

DANIEL M. SCHEMBER, ESQ.
J. E. McNEIL, ESQ.
ANNE PILSBURY, ESQ.

On Behalf of the Federal Defendants:

DAVID WHITE, ESQ.
DENNIS HOFFMAN, ESQ.

On Behalf of the District of Columbia Defendants:

LAURA BONN, ESQ.
GEORGE BARCLAY, ESQ.

Official Reporter: Bruce W. Herzfeld

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
Courtland Jones (recalled)	661			
George C. Moore	701		762	
(By Mr. White)		746		

EXHIBITS

	FOR IDENTIFICATION	IN EVIDENCE
Plaintiffs' 10		729
Plaintiffs' 11		734
Plaintiffs' 12		737
Plaintiffs' 26		743
Plaintiffs' 36		767
Plaintiffs' 46-51		682
Plaintiffs' 52-70		693
Plaintiffs' 71		698

juror, Juror No. 5, and one missing alternate, Alternate No. 5.

(Before the jury.)

THE CLERK: Alternate Juror No. 1, Mr. Freddie L. King, sir, would you please take seat No. 5 in the jury box.

THE COURT: Reseat the alternates now.

THE CLERK: Mr. Walter Morton, would you move over to seat No. 1, and, Andrew Peters, Alternate seat No. 3, and Bonita Pitkin, alternate seat No. 4, and Ronald Poers, alternate seat No. 5, and Rosa Robinson, please take alternate seat No. 5.

THE COURT: Are you ready to resume?

MR. SCHEMBER: Yes, we are.

We would recall Mr. Courtland Jones.

Whereupon,

COURTLAND JONES,

the witness at the time of recess, resumed the stand and testified further as follows;

DIRECT EXAMINATION (Continued)

BY MR. SCHEMBER:

Q. Mr. Jones, I've placed before you once again Plaintiffs' Exhibit 20. Based upon your experience in the FBI, is there information in Plaintiffs' Exhibit 20, just referring to the first page, 20-1, indicating where copies of

this document could be found in Bureau files?

A. Not the Headquarters files, only the Washington Field Office files.

Q. And where -- is there indication as to where in the Washington Field Office files this document could be found?

A. Yes.

Q. And where is that?

A. One would be the F files, and one for the MC file.

Q. And are those file numbers indicated?

A. Yes, sir.

Q. Does the document indicate the number of copies that were distributed to the Washington Field Office or retained by the Field Office?

A. Yes, sir.

Q. And how many is that?

A. Three.

Q. Can you tell me where the third location would be?

A. In this file of the COINTELPRO file.

Q. The COINTELPRO file?

A. Yes.

Q. Is the number of that file indicated on the document?

A. It should be. Yes, yes, I see it, at the top.

Q. Where do you see it, at the top?

A. Yes.

Q. This exhibit concerns or makes reference to Mr.

Julius Hobson, does it not?

A. Yes, sir.

Q. Mr. Jones, I've placed before you a stack of documents. Could you take a minute to look at the top page and the next two pages of that stack of documents and tell me what they are.

MR. WHITE: Could we request an opportunity to examine the document as well?

MR. SCHEMBER: I'm sorry.

THE COURT: You don't have 20?

MR. WHITE: This is not 20, Your Honor.

BY MR. SCHEMBER:

Q. Mr. Jones, take your time and examine the first three or four pages on the top of that stack of documents and tell me, if you can, what that stack of documents is.

A. This is a repository of information supplied by informants.

Q. Is that a file of the Washington Field Office of the FBI?

A. Yes.

Q. Is there a Washington Field Office file number on that, any of those documents, indicating which file those documents come from?

A. Yes.

Q. And what is that number?

A. It is 157-528.

Q. Is there any information in that stack of documents indicating who the subject of that file number is?

A. I'm sure it is.

Q. And who is the subject of that file?

A. Julius Hobson.

Q. Mr. Jones, would you examine again Plaintiffs' Exhibit 20. Does the number 157-528 appear anywhere on Plaintiffs' Exhibit 20-1?

A. No.

Q. Based upon your examination of these documents and your knowledge of normal FBI procedures, does Plaintiffs' Exhibit 20 indicate that a copy of Plaintiffs' Exhibit 20 would not have been placed in Julius Hobson's file indicated as No. 157-528?

A. As I read it, a copy of this material should not go into this file.

Q. Is there a reason for that, based upon your knowledge?

A. Yes.

Q. What is that reason?

A. This file is a repository of information supplied by sources. And this, apparently, is a -- is a document prepared subsequent to the receipt of the information, the information as it came from the informant should be and here --

Q. Is Plaintiffs' Exhibit --

A. -- I guess.

Q. Is Plaintiffs' Exhibit 20 a counterintelligence program document?

A. Yes, -- no, -- well, yes, yes.

Q. Are you sure the answer is yes?

A. That's the subject matter of this communication, COINTELPRO.

Q. Mr. Jones, were COINTELPRO documents concerning a person customarily placed in the domestic intelligence file of that person, to your knowledge?

A. I would say yes, unless it was indexed. And I see that this was indexed.

Q. But that document was not placed in the Julius Hobson file that's before you?

A. No, no, but I see that it was indexed.

Q. And what does it mean, to index it?

A. It means that if you check the indices, then you would come up with that reference to this file, to this serial number.

Q. What serieal number are you referring to?

A. The serial number of this file, which is 100 -- I beg your pardon -- which is 100-448006.

Q. Now, is that a Headquarters file?

A. Yes.

Q. And if you entered the indices of the Headquarters files under the name of Julius Hobson, --

A. Yes, you would come up with this.

Q. -- you would come up with that document?

A. Yes.

Q. Could you enter the indices of the Washington Field Office file under the name Julius Hobson and come up with this document, Plaintiffs' Exhibit 20?

A. I would think so. I would think that they would be indexed either in the Field Office file under COINTELPRO, or the BUF,or the MC,or the informant, whoever furnished this information.

Q. Would the document be indexed under the name Julius Hobson? You mentioned the informant --

A. Yes. I suspect -- I don't know -- I don't have all the files -- I suspect that the source whose name has been blocked out here, that this information concerning Mr. Hobson appears in his file, you know, similar to this one.

Q. When you say "his file", do you mean the informant's file?

A. Yes.

Q. Is there any indication on Plaintiffs' Exhibit 20 that the information could be found in Julius Hobson's file?

A. No, no.

Q. So, in other words, if a person looked at the domestic intelligence file of Julius Hobson, that person would not necessarily come across that COINTELPRO document, is that correct?

A. It would not come -- you may not come across the COINTELPRO document, but one would come across the data on which this is based.

Q. But not that document itself?

A. Correct.

Q. Is it fair to say, then, Mr. Jones, that counterintelligence program actions affecting an individual who is also the subject of a domestic intelligence investigation would not always -- that information regarding the counterintelligence program action would not always appear in a domestic intelligence file as a counterintelligence program action taken against that person or affecting that person, is that correct?

A. Yes.

Q. Mr. Jones, I have placed before you Plaintiffs' Exhibit marked for identification No. 37. What is that document?

A. This is the document from the Washington Field Office to the Director -- it is the Director's copy, and the subject matter is Communist Party USA, counterintelligence

program - IS-C.

Q. Do you recognize the author of that document? Is there any information indicating the author?

A. Yes.

Q. And what is that information?

A. P. H. W. It is probably Phil Wilson.

Q. And what is the date of this document?

A. I can't read it for sure, but the second -- it's in July of 1967.

Q. And in July of 1967 was Philip Wilson a subordinate of yours?

A. I presume so.

Q. Can you tell me the basis of your presumption?

A. The fact that I was the coordinating supervisor and the fact that P. H. W. is on this piece of paper.

Q. Do you see on that document a reference to Women's Strike For Peace?

A. Yes.

Q. Mr. Jones, I have placed before you an exhibit marked for identification as Plaintiffs' Exhibit 38. What is that document?

A. This is a communication from the special agent in charge in the Washington Field Office to the Director, FBI captioned Counterintelligence and Special Operations Nationalities Intelligence dated November 7, 1968.

Q. Do you recognize any information indicating the author of the document?

A. J. R. P. is probably John Palmer.

Q. And what is the date of this document?

A. November 7, 1968.

Q. At that time, Mr. Jones, was Mr. Palmer a subordinate of yours?

A. Yes, sir.

Q. Mr. Jones, what does counterintelligence and special operations mean?

A. I don't remember.

Q. Do you recall whether there was a counterintelligence program of that name?

A. I would presume that it's part of the counterintelligence activities in the Nationalities-Intelligence field.

Q. And what does Nationalities - Intelligence refer to?

A. Nationalities- Intelligence, as I remember, after being out for over seven years, dealt with countries other than the Soviet bloc.

Q. And what was the purpose of FBI activities taken under the heading Nationalities - Intelligence?

A. Would you repeat that question?

Q. What was the purpose of any FBI actions taken under the heading or nickname of Nationalities - Intelligence?

A. Investigations, I presume.

Q. And what was the purpose of counterintelligence and special operations taken with respect to Nationalities - Intelligence?

A. Let me read this.

Q. Take your time.

A. I guess there's nothing in it.

Q. When you say there's nothing in it, what do you mean, Mr. Jones?

A. I mean that that --

Q. Is the document heavily deleted?

A. Yes. I can answer your question to the best of my ability on the basis of what I have here.

Some information was developed that people affiliated with the Women's Strike For Peace contemplated going to the Soviet Union. And Mr. Palmer deemed it desirable to put that information in the counterintelligence and special operations Nationalities - Intelligence file.

Q. And was the counterintelligence and special operations program a disruption program similar to the New Left and Black Nationalist COINTELPROS?

A. I really don't remember.

Q. Mr. Jones, I am placing before you several exhibits marked for identification. Mr. Jones, I've just handed you Plaintiffs' Exhibits marked for identification

39, 40, 41, 42, and 44. Do you have all those?

A. I have 37, 38, 39, 40, 41, 42, 44. That is it.

Q. That's Plaintiffs' Exhibit marked for identification 43. Could you examine those documents, and if you can, describe them as a group or if they don't bear any common features, describe them individually at your leisure as you come across them.

A. Do you want me to begin with No. 39?

Q. Very well. What is 39?

A. That's Exhibit No. 39, okay?

Q. Very well. What is that?

A. It is the FBI Headquarters' copy of an AIRTEL dated November 18 -- I can't read the year -- and it's from the SAC of the Washington Field Office to the Director, and it's entitled Women's Strike For Peace Delegation to Soviet Union, 11-11 -- looks like '68 -- information concerning -- and it's a cover communication transmittal letter with an enclosure.

Q. And what is the nature of the enclosure?

A. I can read it to you, if you wish.

Q. Can you describe the nature of the enclosure? Is it information describing Women's Strike For Peace, Mr. Jones, or activities of Women's Strike For Peace?

A. It's rather difficult to describe this because a portion of it has been marked out, and as I read it,

it doesn't make too much sense to me. But it says, "Concerning Felix Green, Parade, a Sunday supplement in the Washington post and Times-Herald newspaper, Washington, D. C., in the Sunday edition, October 9, 1966, set forth the following on page 2 under Walter Scott's Personality Parade: "Felix Green of Palo Alto, California .." --

Q. Excuse me, Mr. Jones. Could you look at the bottom portion of the documents, the document there, --

A. Yes.

Q. -- at the attachment --

A. Yes.

Q. -- and see if there is any reference there at all to the Women's Strike For Peace.

A. Yes, there is. That's the reason I said that this doesn't make much sense to me to send to the FBI Headquarters a quotation from the Sunday supplement of the Post. That's the reason I was reading it to you.

Q. Mr. Jones, could you examine the first page of Plaintiffs' Exhibit marked for identification 39.

A. Yes.

Q. Does the term counterintelligence and special operations appear on that document?

A. Yes.

Q. Can you tell me on the document the place where it occurs and the significance of the placement of the

terms there?

A. Under copies for the Bureau there is listed five and among the copies is one for counterintelligence and special operations.

Q. Mr. Jones, now, can you just examine the exhibits marked for identification 40 through 44 --

A. I'll be glad to.

Q. -- and tell me whether they are all communications from or to the Washington Field Office and FBI Headquarters concerning the Women's Strike For Peace, with copies filed in a file entitled counterintelligence program and special operations?

A. Yes, I'll be glad to.

Exhibits 40, 41, 42, 43, 44 are as you described them.

Q. Are all those exhibits marked for identification official records of the FBI?

A. Yes, sir.

Q. Mr. Jones, were all the counterintelligence program activities conducted by the Washington Field Office conducted under your supervision?

MR. WHITE: Your Honor, I'd like to --

THE COURT: Just a moment. There is an objection.

MR. WHITE: I want to make an objection at the bench.

(At the bench.)

MR. WHITE: Your Honor, my objection is that I believe there is an effort here, whether intentional or not, to mislead the jury as to the facts of this situation. The documents under discussion relate in one way or another to something called counterintelligence and special operations. During the course of discovery in this case inquiries were made to the Department of Justice by the Plaintiffs regarding whether any operations were made against the Women's Strike For Peace under that sort of designation, and the response was negative. The only thing was the acquisition of information from an informant. Mr. Schember is now by this questioning and use of these documents trying to have the jury infer that something was, in fact, done.

MR. SCHEMBER: Your Honor, the purpose of the inquiry is to indicate that information concerning the Women's Strike For Peace was gathered and placed in a counterintelligence program file. I intend to elicit later evidence that the counterintelligence program and special operations was one of the several counterintelligence programs that the FBI conducted, that it was a program of disruption, and that --

THE COURT: Do you have any evidence of the disruption of the Women's Strike For Peace?

MR. SCHEMBER: No, Your Honor. These documents

are heavily deleted. I will ask the witness --

THE COURT: You have heard the representation by counsel that there is nothing in the record of any action against the Women's Strike For Peace. We are not now in the discovery stage. You either have evidence or you don't.

MR. SCHEMBER: What we are bringing into evidence, Your Honor, is that the FBI felt that the activities of the Women's Strike For Peace made them an appropriate target for the counterintelligence program.

THE COURT: But you have no evidence that they were a target other than that they gathered information that could be used for that purpose. We can't get a recovery on that basis. Is that your theory for Women's Strike For Peace? That they could have gathered information --

MR. SCHEMBER: I want to ask Mr. Jones what that was and if anything was taken --

THE COURT: The objection is sustained. You must not have read my pretrial order carefully. It said I wasn't interested in gathering information about somebody unless you have proof of something happening to someone. Let's not get into situations where nothing did happen.

MR. SCHEMBER: Are you ruling that these exhibits are not admissible?

THE COURT: For the purposes that you proffer them, yes.

(Before the jury.)

BY MR. SCHEMBER:

Q. Mr. Jones, during the time that you were Security Coordinator at FBI -- at the FBI's Washington Field Office, did you supervise a squad that was responsible for implementing any wiretaps or other electronic surveillance that was implemented by the FBI? Did that responsibility fall within your supervision?

A. Yes, sir.

Q. Was there a squad that had responsibility for implementing any wiretaps or other electronic surveillance conducted by the Field Office?

A. Yes, sir.

Q. What was the designation of that squad?

THE COURT: Why don't you ask him if he knows the designation.

BY MR. SCHEMBER:

Q. Do you know what the designation of the squad was?

A. It changed over the years. I am not certain of the designation when I left.

Q. It was a squad that you were assigned to supervise?

A. Yes, sir.

Q. Mr. Jones, I have placed before you documents marked for identification as Plaintiffs' Exhibit 46 through

51. Would you check to see that you have all of those there.

A. I have Exhibits 46 through 51, Mr. Schember.

Q. What is Exhibit 46?

THE COURT: Do you have sets for me, Mr. Schember?

THE WITNESS: Are you ready, sir?

BY MR. SCHEMBER:

Q. What is that document?

A. It's a recommendation by the special agent in charge of the Field Office to the Director of the FBI that a technical surveillance be instituted on an organization which is affiliated with the Black Panther Party in Washington, D. C.

Q. Does the document indicate the address where the technical surveillance is to occur?

A. Yes, -- oh, excuse me. Would you repeat that?

Q. Does the document indicate the address where the technical surveillance is to occur?

A. The address of the organization that is indicated is 2327 18th Street, N.W., Washington, D. C.

Q. Mr. Jones, would you examine the rest of the documents there and tell me -- first of all, what is technical surveillance?

A. It is wiretap -- a telephone tap.

Q. Would you examine the rest of the documents that

I have placed before you and tell me if all of those documents pertain to the technical surveillance that you refer to in 46?

A. 47 is a memorandum prepared on the Headquarters level recommending that the attached memorandum be directed to the Attorney General requesting authority to institute a telephone surveillance on the office of the Black Panther Party front group, the National Committee to Combat Fascism in Washington, D. C.

Q. Does 47 refer to the address mentioned in 46?

A. Yes, sir.

Q. Does 48 also refer to the same proposal for technical surveillance for wiretap?

A. Yes.

Q. And 49, is that the next exhibit?

A. Yes, 49.

Q. Is that also a document referring to this same wiretap?

A. Yes.

Q. And 50?

A. 49 is the justification for continuation of it, and 50 is an internal memorandum at Headquarters asking the approval of the Director to request continuation of the surveillance from the Attorney General. 51 -- 51 is the memorandum, I believe, that was prepared to submit

to the -- yes, 51 is a cover -- 51 pertains to 50. It is really an adjunct of 50.

Q. Mr. Jones, are you familiar -- do you recall the customary procedures that were followed to implement a wiretap approved by the Attorney General, such as the wiretap indicated in these documents?

A. That is a broad question, sir. Are you asking what I did or --

Q. I am asking you, based on your expertise as the former Security Coordinator, as to whether you are familiar with or whether you recall the customary procedures of recommending and receiving approval --

A. Yes, sir, I do.

Q. -- for this type of a wiretap?

A. Yes, sir.

Q. Did this type of a wiretap involve the obtaining of a warrant from a magistrate for approval of the wiretap?

A. No, sir.

Q. Mr. Jones, would you please look at Plaintiffs' Exhibit for identification No. 49, the first page.

A. Very well.

Q. Does that document indicate a number assigned to this particular wiretap?

A. Yes.

Q. What is that number?

A. WL 2141-R asterisk.

Q. Mr. Jones, I would like to show you Plaintiffs' Exhibit 45 in evidence. Does that same number appear on any of the documents included within 45?

A. Yes.

Q. Can you describe the -- where the number appears and the other information there indicating the context in which the number appears.

A. You are speaking of 45?

Q. That's correct.

Let me ask you this question, if I may, Mr. Jones.

A. Please.

Q. Does that number appear on the first page of 45?

A. Yes, sir.

Q. What other information is on that page?

A. It says Abbott, Sam, and it was 7-4-70.

Q. And the number?

A. Yes.

Q. Does that number appear on page 2 of 45?

A. Yes.

Q. What other information appears there?

A. It says Bloom, Abe, WF 241 - 9, asterisk --

MR. WHITE: We will stipulate that Plaintiffs Abbott, Bloom, Booker, and Eaton were overheard on the

electronic surveillance now under discussion.

THE COURT: Do you have any further questions on that?

MR. SCHEMBER: One further question on that, Your Honor.

BY MR. SCHEMBER:

Q. Do you know what "R" and "asterisk"refer to in that number?

A. No. I don't remember. I just don't understand that.

MR. SCHEMBER: Your Honor, at this time I would move Plaintiffs' Exhibits 46 through 51 into evidence.

MR. WHITE: I'm sorry, Your Honor?

THE COURT: He moved 46 through 51.

MR. WHITE: No objection, Your Honor.

MR. BARCLAY: Can we approach the bench for a moment?

THE COURT: Yes.

(At the bench.)

MR. BARCLAY: Your Honor, these exhibits as well as the exhibits that have been admitted previously -- I think an instruction at this point should be that they are admitted for purposes only of the Federal Defendants.

THE COURT: Are they offered for any other purpose?

MR. SCHEMBER: No.

(Before the jury.)

THE COURT: Ladies and gentlemen, you should understand that this line of testimony and these exhibits are admitted only against the Federal Defendants, not against the District of Columbia Defendants. It is not admitted against, but it is admitted with respect to the Federal Defendants.

MR. SCHEMBER: Your Honor, I don't believe you indicated whether they were received.

THE COURT: I did indicate that. They are received.

(Plaintiffs' Exhibits 46-51 were received in evidence.)

BY MR. SCHEMBER:

Q. Mr. Jones, I have just placed before you documents marked for identification as Plaintiffs' Exhibits 52 through 62. Do you have all those and would you examine them.

Please tell me what -- if those documents constitute a series of documents concerning the same subject.

MR. WHITE: The Federal Defendants are willing to make a stipulation with regard to these documents. It may be a good idea to discuss it at the bench, first.

THE COURT: Okay.

(At the bench.)

THE COURT: Have you discussed this kind of

stipulation before?

MR. WHITE: We should have, Your Honor.

THE COURT: Yes. You are wasting an hour and a day with five documents.

MR. WHITE: We are prepared to stipulate that the Exhibits 52 through 62, two of which are already in evidence, relate to an electronic surveillance on the People's Coalition for Peace and Justice during parts of April and May of 1971, and that certain Plaintiffs -- I will have to get the names -- were overheard on that surveillance; that it was recommended by the Washington Field Office and approved by the Attorney General of the United States.

MR. SCHEMBER: We would accept that stipulation and move the documents into evidence.

MR. BARCLAY: Again, the same qualification --

THE COURT: We don't have to say that every time.

(Before the jury.)

THE COURT: Would you state the stipulation.

MR. WHITE: The Federal Defendants are stipulating that the documents presently referred to relate to an electronic surveillance on an organization known as the People's Coalition for Peace and Justice which occurred in April and May of 1971. The surveillance was recommended by the Washington Field Office and approved by the Attorney General

of the United States.

THE COURT: Are you going to identify those who were overheard?

MR. WHITE: Yes, Your Honor.

The Defendants similarly stipulate that Plaintiffs Richard Pollock and Arthur Waskow were overheard on that surveillance.

THE COURT: All right.

Can you move it along now?

MR. SCHEMBER: Yes, Your Honor.

THE COURT: Are there more things like this that if we had a recess we might stipulate?

MR. SCHEMBER: One final matter, if I could inquire to the Court whether Federal Defendants will stipulate as to the admissibility of Plaintiffs' Exhibits 63 through 68.

MR. WHITE: We so stipulate, Your Honor.

THE COURT: Let's have the sense of that stipulation. Is there a factual stipulation? They are admissible. Do you want to say what they say?

MR. SCHEMBER: Your Honor, --

THE COURT: Why don't you and Mr. White confer for a moment.

MR. SCHEMBER: Your Honor, the stipulation is that Plaintiffs' Exhibits 63 through 68 are notes taken

by agents of the FBI upon overhearing various of the Plaintiffs on the two wiretaps that we have been discussing, the one concerning the Black Panther Party and the second concerning the People's Coalition for Peace and Justice.

THE COURT: All right.

MR. SCHEMBER: For clarification, I would -- I don't believe Your Honor has stated that Exhibits 52 through 56 are in evidence. May they be received?

THE COURT: Of course. Similarly 63 through 68 are received.

MR. SCHEMBER: 63 through 68.

MR. WHITE: I am losing track of the numbers, but whatever they are --

THE COURT: We will settle that at recess. Whatever is stipulated to is received, and go on and fix it at recess.

Go ahead. Is there anything else?

MR. SCHEMBER: Yes, Your Honor.

BY MR. SCHEMBER:

Q. Mr. Jones, I have placed --

THE COURT: May I have a copy of it, please?

MR. SCHEMBER: Yes, Your Honor.

BY MR. SCHEMBER:

Q. I have placed before you copies of documents marked for identification as Plaintiffs' Exhibit 69 and 70.

What is Exhibit marked for identification 69?

A. 69 is a communication from the special agent in charge of the Washington Field Office to the Director of the FBI. It appears to be the Bureau copy, and it says that "Enclosed with this communication are two copies of an article appearing in the July 14, '75 issue in the Quicksilver Times, an underground newspaper distributed in Washington, D. C."

Q. Do you recognize any of the handwriting on the first page of 69?

MR. WHITE: We object to the relevancy and to these documents, Your Honor.

THE COURT: The objection is overruled.

THE WITNESS: This appears, as I said, sir, the FBI Headquarters' copy, and I would not normally be in a position to recognize those names.

BY MR. SCHEMBER:

Q. Mr. Jones, do you recall whether as part of a New Left counterintelligence program an intensive program of interviews was carried out by WFO, FBI agents?

A. It could very well have been.

Q. Do you recall specifically whether such a program was carried out?

A. Of whom? Interviews of whom, Mr. Schember?

Q. Of persons in the Washington, D. C. community

thought by the FBI to be members of the New Left?

A. I am sure that there were interviews.

Q. Do you recall in July of 1970 the institution of a program of intensive interviews as part of the counterintelligence program?

A. I can't say that I do, Mr. Schember.

MR. WHITE: I must again object to the relevancy of this inquiry and would like an opportunity to explain my objection further.

THE COURT: Very well. Come to the bench. We will take a recess now, ladies and gentlemen. We will recess until 3:15.

(Whereupon, the jury left the courtroom.)

(In open court.)

THE COURT: Mr. White?

MR. WHITE: Your Honor, it is my recollection that only one Plaintiff alleges that he was a victim or has a cause of action on grounds of harassing interviews, and that is the Plaintiff Reginald Booker.

THE COURT: Not Pollock?

MR. WHITE: That is correct, Richard Pollock as well, who made a similar claim.

THE COURT: How about Abbott?

MR. WHITE: He testified, that is correct, that he had an interview, but there was no claim made --

THE COURT: He testified to being repeatedly approached by agents --

MR. WHITE: Who is not a defendant in the case --

THE COURT: You keep forgetting, this is a conspiracy charge.

MR. WHITE: Only one Defendant is alleged to have engaged in such interviews, and that is the Defendant Gerald Pangburn. The documents at issue relate to counterintelligence program - New Left, which was a function of Squad S-7, and Gerald Pangburn was not a member of that squad. These documents don't relate to his activities nor do they relate to any of the activities alleged in this case as against any of the particular Plaintiffs.

THE COURT: Do you want to respond?

MR. SCHEMBER: Yes, Your Honor.

These documents, 69 and 70, indicate the knowledge of the Washington Field Office that the technique of a program of intensive interviews can have an intimidating effect and can be used as a technique under the counterintelligence program.

THE COURT: And you are offering them for that limited purpose?

MR. SCHEMBER: I am offering them for that purpose of demonstrating that knowledge on the part --

THE COURT: They will be received for that

limited purpose. They are not received --

MR. SCHEMBER: Exhibits 69 and 70 are received for that purpose?

THE COURT: For that limited purpose. They will have to be connected. They are not received as evidence that this particular witness was responsible for so-called intensive interviews, but as evidence that the group understood . . . intensive interviews to be harassing. That is what you are offering it for.

MR. SCHEMBER: That is what I am offering it for.

THE COURT: Okay, we will adjourn now. 69 and 70 will be received for that limited purpose.

MR. SCHEMBER: Are they received at this time or --

THE COURT: They are received at this time for that purpose.

MR. SCHEMBER: Very well.

(Whereupon, a short recess was taken in the proceedings in open court.)

(Thereupon, the following proceedings were had in chambers.)

THE COURT: I wanted to interview you without the jury present.

MS. SIDRANSKY: I know I am late.

THE COURT: Tell us your name for the record.

MS. SIDRANSKY: Sidransky, Evelyn Sidransky.

THE COURT: What time did you get here?

MS. SIDRANSKY: At 2:15. I thought I heard 2:45, and I wrote that down in my notebook. I can't understand what happened. I can't understand why I wrote the wrong time down. It is unbelievable.

THE COURT: That is most unfortunate. We had to go ahead without you. You were one of six people sitting in judgment in this very important matter.

MS. SIDRANSKY: I am sorry.

THE COURT: I am sure that counsel had selected this jury very carefully. We hoped that you would be on it, and you are not. It is a terrible mistake.

MS. SIDRANSKY: I can't understand what happened. I wrote down 2:45, because that is what I thought I heard. I have been here every day.

THE COURT: Well, it is a risk I take when I change the rhythm.

MS. SIDRANSKY: I have been here a quarter to 9:00 every morning.

THE COURT: I ought to bring the jury in every day at 9:30.

Well, I am awfully sorry. I am very disappointed that you can't serve further.

MS. SIDRANSKY: I am very sorry.

THE COURT: I can see it was a mistake. I don't want to make it light on your conscience. You had a responsibility commensurate with mine.

MS. SIDRANSKY: I am very sorry.

THE COURT: Well, you are excused. I would appreciate it if you wouldn't talk to any of the jurors or talk to anybody outside about the case.

MS. SIDRANSKY: I will not.

THE COURT: I would appreciate it. Thank you. That is all I have.

MS. PILSBURY: Will we be picking another --

THE COURT: No, we picked.

(Thereupon, a short recess was taken.)

AFTER RECESS

(3:30 p.m.)

(Jury not present.)

MR. WHITE: Your Honor, before we call back the jury, Mr. Schember and I have discussed the matter of the order of witnesses. It is Mr. Schember's intention to proceed with the Defendant George Moore following the examination of Mr. Jones. Mr. Moore --

THE COURT: Rather than Mr. Brennan?

MR. WHITE: Yes, that is correct.

Mr. Moore has an extremely important business

engagement tomorrow regarding a conference which he is in charge of and has organized over the last several months.

THE COURT: Let's stay here until we finish.

MR. WHITE: Well, I was going to suggest, if the Court would allow us to, upon conclusion of the direct examination of Mr. Jones, to hold him over until tomorrow for purposes of my examination, and proceed with Mr. Moore this afternoon.

THE COURT: Any problem with that?

MR. SCHEMBER: No problem, Your Honor.

THE COURT: I was planning on staying a little after 5:00 since we lost some time.

MR. WHITE: I understand that, Your Honor. I was taking that into account.

THE COURT: Bring back the jury.

(Before the jury.)

Whereupon,

COURTLAND JONES,

the witness at the time of recess, resumed the stand and testified further as follows:

DIRECT EXAMINATION (Continued)

BY MR. SCHEMBER:

Q Mr. Jones, were interviews conducted by FBI agents part of the domestic intelligence investigations conducted under your supervision?

A. Yes.

Q. Were such interviews also conducted for purposes of the counterintelligence programs? Do you recall at this time whether they were?

A. No, I don't recall that.

(Plaintiffs' Exhibits 52-70 were received in evidence.)

BY MR. SCHEMBER:

Q. Would you examine Plaintiffs' Exhibit in evidence 69?

A. Yes, sir.

Q. Does that refresh your recollection as to whether the Washington Field Office utilized interviews as a technique under the New Left counterintelligence program?

A. Yes.

Q. And what was the purpose of using interviews under the counterintelligence program?

A. Well, the basic purpose of any interview is to gain information.

Q. Was gaining that information part of the counterintelligence programs?

A. I don't know that it was, Mr. Schember.

Q. Does Exhibit 69 refresh your recollection as to the purpose of using interviews under the counterintelligence program?

A. Mr. Schember, as far as I know, this is the first time I have seen this piece of paper, and I will be happy to read it to you as coming from the Field Office.

Q. I understand, Mr. Jones. My question is whether the document refreshes your recollection --

A. It does not refresh my recollection, sir.

Q. Would you examine Plaintiffs' Exhibit 70.

A. Yes, sir.

Q. Page 2 of that document, the first paragraph. Does that document refresh your recollection as to the purpose of using interviews under the counterintelligence program - New Left?

A. What was your question, sir?

Q. My question, Mr. Jones, was whether that page of that exhibit, Exhibit 70, refreshes your recollection --

A. Of what?

Q. -- as to the purpose of employing interviews in the counterintelligence program - New Left?

A. No.

Q. Were interviews used as a technique of the Black Nationalist counterintelligence program?

A. I don't know.

May I explain something to you, sir?

Q. Yes.

A. Okay. I was a security coordinating supervisor.

I am not familiar with the day-to-day activities of all the agents, and that -- and that is my answer to you, sir.

Q. You testified, did you not, Mr. Jones, that important matters were brought to your personal attention, did you not?

A. Yes, sir.

Q. And you also testified, did you not, that counterintelligence program matters were considered important matters?

A. Yes, sir. I am saying that I have no recollection of any interviews being used to intimidate people.

Q. Mr. Jones, I have placed before you an exhibit marked for identification as Plaintiffs' Exhibit 71. What is that document?

A. This is a Teletype from the special agent in charge of the Washington Field Office to the Director of the FBI, special agents in charge - Chicago and New York, entitled "The New Mobilization Committee to End the War in Vietnam, demonstration in Washington, D. C., November 15, 1969, information concerning" is the title.

Q. Excuse me, Mr. Jones. Is the author of that Teletype indicated?

A. It looks as if it's P. H. W., Phil Wilson.

Q. And what is the date of this document?

A. October 21, 1969.

Q. And during that time period Mr. Wilson was a subordinate of yours, was he not?

A. Yes, sir.

Q. Do you recognize in the lower right-hand corner the handwriting that appears to be a name?

A. Yes.

Q. What does that handwriting appear to you to be?

A. It appears to be Mahoney.

Q. Do you recognize that name?

A. Yes, sir.

Q. Who is Mr. or Ms. Mahoney?

A. He is, or I assume that he still is, an agent of the FBI.

Q. Was he an agent of the FBI at the time this document was written?

A. Yes, sir.

Q. Was he a subordinate of yours?

A. Yes, sir.

Q. Do you recall what his responsibilities were as your subordinate, specifically any investigations that he was responsible for, if any?

A. I don't -- he was on several squads at several different times. I do not remember his specific responsibility in October, 1969, Mr. Schember.

Q. This document is an official record of the FBI,

is it not?

A. Yes, sir.

MR. SCHEMBER: Your Honor, at this time I would move Plaintiffs' Exhibit 71 into evidence.

MR. WHITE: I object on the grounds that no relationship has been shown between this document and the cause of action.

MR. SCHEMBER: Your Honor, this document --

THE COURT: Why don't you come to the bench.

(At the bench.)

THE COURT: What are you offering it for?

MR. SCHEMBER: This refers to the investment by the Vietnam War Committee in stocks. Those are stock certificates. This indicates the knowledge of the Washington Field Office of the existence of that information --

THE COURT: What is the reference to Spiker about?

MR. SCHEMBER: Mr. Spiker is the person who provided the FBI that information.

THE COURT: You are saying you are going to trace this back to the Metropolitan Police Department and show the nexus?

MR. SCHEMBER: Yes. This document was specifically examined by Chief Winkleman during the course of his investigations and is referenced to the Winkleman materials --

THE COURT: I will receive it subject to being

tied up with evidence of cooperation with respect to the movement of the Singer Sewing Machine stock from the place it was through the Police Department to the FBI. That is what I understand it's being offered for. I will have to decide what the legal significance of it is.

MR. WHITE: The document itself simply says that according to Spiker VMC had pushed a certain number of shares of Singer stock. The VMC has not been described as an organization with which any of the Plaintiffs have alleged affiliation.

MR. SCHEMBER: That is not quite correct. Mr. Waskow testified that he was affiliated with the Vietnam Moratorium Committee.

THE COURT: This will have to be sifted through the strainer. It's received for that purpose. 71 is received.

(Before the jury.)

THE COURT: 71 is received.

(Plaintiffs' Exhibit No. 71 was received in evidence.)

BY MR. SCHEMBER:

Q. Mr. Jones, are you familiar with the term Agitator Index?

A. Slightly.

Q. What does the Agitator Index refer to?

A. I'm not certain.

Q. To the best of your recollection what, if anything, do you recall about the Agitator Index?

A. I don't know if I recall enough to even make sense, Mr. Schember. It was in the Index, but I don't remember which field it was in.

Q. Do you recall the name or the designation Rabble Rouser Index? Does that term --

A. No.

Q. Do you know the term Security Index?

A. Yes, sir.

Q. What is or was the Security Index?

A. The Security Index was an index that was started in the forties, I believe, and it was then -- it was to include the names of people who could be considered dangerous to the security of the country in the event of hostility. And that index was stopped. I don't remember when. That's it.

Q. Do you recall the decade in which it was stopped?

A. I would be guessing, Mr. Schember.

Q. Are you familiar with the term Administrative Index?

A. I have -- I remember that term, but I don't -- I cannot distinguish its purpose from agitator or any of these other indexes that you speak of.

Q. What were these -- you testified, did you not, that the index was an index of persons' names?

A. Yes, sir.

Q. Was the information contained in the index customarily used in the counterintelligence programs?

A. I really don't know.

Q. Mr. Jones, you were the Security Coordinator throughout the time period that the counterintelligence programs were in existence?

A. Yes, sir.

Q. And you supervised them through Squads S-7 and S-5 throughout the time period that those programs were in existence?

A. There were supervisors under my direction on Squads 7 and 5. They took care of the day-to-day activities, Mr. Schember.

MR. SCHEMBER: I have no further questions.

THE COURT: Mr. White?

MR. WHITE: Your Honor, as we discussed earlier, we would wish --

THE COURT: Excuse me, yes.

You may step down, Mr. Jones.

Ladies and gentlemen, we are going to defer cross-examination of this witness in order to take another witness out of turn.

You are excused for the moment, Mr. Jones.

Call your next witness.

MR. SCHEMBER: Plaintiffs call George C. Moore.

Whereupon,

GEORGE C. MOORE

was called as a witness on behalf of the Plaintiffs and, after first being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SCHEMBER:

Q. Mr. Moore, my name is Dan Schember. I'm one of the attorneys for the Plaintiffs in this case.

Would you state your full name and address for the record, please.

A. Yes. My names is George C. Moore. I reside at 6715 North 27th Street, Arlington, Virginia.

Q. And are you a Defendant in this case?

A. I am a Defendant.

Q. Were you at one time affiliated with the FBI?

A. I was.

Q. During what time period, sir?

A. I was in the FBI from 1941 until 1974.

Q. Were you ever assigned to FBI Headquarters?

A. I was.

Q. During what time period?

A. I was at FBI Headquarters from 1956 until 1974.

Q. During the period 1966 through 1974 --

THE COURT: Did you say '66 or '56?

THE WITNESS: No, sir, I was at Headquarters from 1956, five six.

BY MR. SCHEMBER:

Q. Commencing approximately 1966 through 1974, what was your position at FBI Headquarters, sir, or positions?

A. Yes. 1966, I believe I was what was called No. 1 man in the Latin American or Latin American section, and I believe it was in the fall of 1967 that I became section chief of a section which was called at that time Subversive Control. Later there was a reorganization, several weeks after I became that section chief, to a section called Racial Intelligence section, and I continued as section chief of that section, but it changed its name several times.

Q. Were you the first section chief of the Racial Intelligence section?

A. That is correct.

Q. And were you the chief of that section throughout the time period that that section so designated by name was in existence?

A. Yes, sir.

Q. When the name of the section changed did the function or purpose of the section change?

A. No.

Q. What was the purpose of the Racial Intelligence section?

A. The purpose of the Racial Intelligence section -- it was organized in the fall of 1967, and it was brought about primarily because of the heavy influx of work which was due to the riots which were sweeping across the country, and keeping together and keeping tabs -- keeping track of intelligence information, hopefully, which was used to conduct studies to try to ascertain why riots would take place in the future; and, also, for the purpose of correlating intelligence information whereby something could be done in order to put a stop to the riots, the bombings, fire bombings, and things of that nature that took place; and, also, it was to put in one place under the heading of Racial Matters not only information concerning the collecting of intelligence concerning riots, but also the investigation of groups which had racial connections such as the KKK, Ku Klux Klan, the Minutemen, the American Nazi Party, other white hate organizations. We also had at that time in the section Puerto Rican revolutionary groups which had a propensity for violence, and -- as well as other organizations primarily of a violence-prone nature.

Q. Did the section supervise the conduct of racial matter investigations by Field Offices?

A. That is correct.

Q. Did the subjects of those investigations include black groups?

A. Yes, that is correct.

Q. Did they include the Black United Front?

A. I believe that was one of the investigations.

Q. Did the Racial Intelligence section have any responsibility with respect to any of the counterintelligence programs conducted by the FBI?

A. Yes, it did.

Q. All programs or one in particular?

A. Just the counterintelligence program that concerned itself with the KKK, the Ku Klux Klan, and also the counterintelligence program that dealt with black nationalist groups.

Q. Were those two separate programs?

A. Two separate programs.

Q. What was the name of the program concerning the Ku Klux Klan?

A. I believe it was COINTELPRO - Klan. That's my recollection. I'm not sure of that, but I believe that would be it.

Q. What was the name of the counterintelligence program which was applied to black groups?

A. I believe it was COINTELPRO - Black Nationalist.

Q. Do you recall when the Black Nationalist counterintelligence program was instituted?

A. I believe it probably was instituted with this communication, August 25, 1967.

Q. Mr. Moore, I have just placed before you Plaintiffs' Exhibits 2A and 2B. Do you recognize 2A?

A. I'm aware of these.

Q. Does 2A bear your name?

A. 2A bears my name, but not my initials.

Q. Is there handwriting next to the typewritten place where your name appears?

A. Yes.

Q. Does it appear there that someone else signed your initials?

A. That is correct.

Q. Do you know who the author of this memorandum is?

A. The author of the memorandum is indicated as T. J. D.

Q. Do you know what the initials T. J. D. stand for?

A. Thomas J. Deakin, D-e-a-k-i-n.

Q. And what is the date of this document, 2A?

A. The date of 2A is February 23, 1968.

Q. Could it be February 29?

A. Pardon me? What did I say?

Q. I believe you said 23.

A. Well, it's very difficult to read. It could be a 9, but it looks like a 3.

Q. And on February 23 or 29, 1968, what was your position in the FBI at that time?

A. At the time this memorandum was written I was section chief of the Racial Intelligence section.

Q. Was Mr. Deakin a subordinate of yours?

A. Yes, he was.

Q. Did you approve his preparation of this memorandum?

A. No, I did not.

Q. Did someone sign your initials -- do the initials next to your name indicate approval in your name by someone else?

A. That is correct.

Q. Can you tell me the policy of the Racial Intelligence section regarding the authority of your subordinates to sign or approve documents on your behalf?

A. This was the same -- we had no special policy in our section. It was the same policy throughout the Bureau. You will note that it says G. C. Moore to W. C. Sullivan. And I assume, in response to your question, you want me to explain this, is that correct?

Q. Yes.

A. Okay. G. C. Moore and W. C. Sullivan -- I was a section chief, and Mr. W. C. Sullivan was Assistant Director of the FBI in charge of the Domestic Intelligence division. Many years before I became a section chief there was a policy evidently established in the Bureau that all internal communications in the form of a memorandum -- any memorandum that would go up to higher officials would be written from the section chief by name, whoever he might be at that particular time, to his superior. And the reason for that was for funneling and channelizing purposes in the event that the Director or a higher official -- and, incidentally, above me, for instance, the section chief, there were a minimum of seven higher officials until we got to the Director. If there was a question on the memorandum they could punch a button and get you by name instead of wasting a lot of time. So the name, T. C. Moore, since I was section chief, was on here in my absence -- if I was there, I would sign that and approve the communication. If I was not there the person who was acting for me would sign that using my initials, a slant and his initials, showing approval by the section.

Q. Did you subsequent to February 23 or 29, whatever the document says, become aware of the existence of 2A --

A. Yes.

Q. -- and the fact that your initials had been signed to it?

A. Yes, yes.

Q. When you first became aware of the existence of 2A, did you approve the approval by your subordinate? Did you protest the fact that this document had been approved in your name?

A. No.

Q. Mr. Moore, have you ever seen 2B?

A. I'm sure I have.

Q. What is 2B?

A. 2B is the attachment to this memorandum dated February 29, 1968.

Q. And what is the date of the attachment?

A. The attachment is 3-4-68. It's an AIRTEL to SAC - Albany and to a number of other Field Offices entitled Counterintelligence Program - Black Nationalist Hate Groups, Racial Intelligence.

Q. Do you recall the purpose of this document, the attachment dated March 4, '68?

A. Yes. The purpose was set forth in the cover memorandum; says: "To expand the counterintelligence program designed to neutralize militant black nationalist groups from 23 to 41 field divisions so as to cover the great majority of black nationalist activity in this country."

publicize the existence of domestic intelligence investigations?

THE COURT: Asked and answered, Mr. Schember.

BY MR. SCHEMBER:

Q. Mr. Moore, what were the purposes of the Black Nationalist counterintelligence program?

A. The purposes of the Black Nationalist counter-intelligence program are as stated in the memorandum that we referred to as Plaintiffs' Exhibit 2A and its attachment. And generally speaking, just to simplify it, I think the purpose was to prevent violence.

Q. Were there other purposes?

A. I think that was it, primarily. I think it all boiled down to the bottom line of preventing violence.

Q. Well, you testified, did you not, that pages 3 and 4 of the March 4, '68 memorandum accurately reflect the goals of the program, did it not?

A. That's correct.

Q. What were the goals of the program?

A. The goals were as stated on page 3 and carried over to page 4.

Q. Is the prevention of violence one of the goals?

A. I would say that it's one of the goals. I haven't -- I'll read these to you, but I would say prevention. Yes. It says, No. 3, prevent violence, yes.

Q. And are there not four other goals indicated

specific example, I happen to remember, that is, during the -- following the assassination of Dr. Martin Luther King, there was a Resurrection City here in Washington, D. C., and there were a number of groups who came to Washington, D. C. from outside Washington and engaged in a considerable amount of violent crime in our city.

Q. Is it your testimony that the Southern Christian Leadership Conference was targeted under this program because other groups engaged in violence?

A. That is not my testimony.

Q. Is it your -- was --

A. I have no recollection as to why the SCLC was targeted.

Q. Mr. Moore, I place before you Plaintiffs' Exhibit in evidence No. 7. What is this document?

A. This is a document which is a memorandum from G. C. Moore to Mr. C. D. Brennan dated August 20, 1970 entitled Counterintelligence Matters - New Left - Black Panther Party.

Q. Did you have any responsibilities for implementation of the New Left counterintelligence program?

A. I did not.

Q. Can you explain to me how your name appears on this document which bears the title Counterintelligence Matters - New Left?

and then under that it says New Left - Security Matter.

Q. Were there occasions when the Black Nationalist counterintelligence program and the New Left counterintelligence program operated jointly to accomplish a single action?

A. I can't recall whether it acted jointly.

Q. Is not Plaintiffs' Exhibit 8 an illustration of that?

A. I would not say it's an illustration of acting jointly.

Q. Can you tell me the reason why both headings are on the document?

A. Because it concerned information which was felt to be pertinent to the other area, which would have been the New Left, by the person who wrote it, who was under the Racial Intelligence section.

Q. Mr. Moore, I've placed before you Plaintiffs' Exhibit 18. What is the heading on that document?

A. The heading on this document is COINTELPRO - New Left, BUBED, 8-29-69.

MR. WHITE: I didn't understand that.

THE WITNESS: COINTELPRO - New Left, and under that it says BUBED -- that's B-U-B-E-D, 8-29-69.

BY MR. SCHEMBER:

Q. You received a copy of this document, did you not?

goal was to prevent violence.

Q. Isn't it true that the purpose of that memorandum was to show distrust and dislike between blacks and Jewish people?

A. I think the purpose of it was to be disruptive.

Q. To prevent a coalition of groups?

A. Yes.

Q. Mr. Moore, I've placed before you a document marked for identification as Plaintiffs' Exhibit 10. Can you explain what that is?

A. This is a memorandum dated March 26, I believe, 1968 from G. C. Moore -- the typewritten name G. C. Moore -- to Mr. W. C. Sullivan entitled Counterintelligence Program - Black Nationalist Hate Groups, Racial Intelligence (Washington Spring Project).

Q. Do your initials appear on this document?

A. I can't tell whether they do or not. It's a very poor copy and it doesn't appear to be the initials the way I would have written them at that time. It looks like there's something after those initials that could have been somebody else's initials. I just can't tell for sure.

Q. Is the author of this document indicated?

A. Yes, the author is T. J. D.

Q. And who is that again?

A. Again, that is special agent Thomas Deakin.

Q. A subordinate of yours at the time?

A. Yes, a subordinate at the time.

MR. WHITE: Your Honor, once again I must object to the materiality of Exhibit No. 10, and I must assume that Mr. Schember will be proceeding to Exhibits 11 and 12.

MR. SCHEMBER: Your Honor, may we approach the bench?

THE COURT: Yes.

(At the bench.)

MR. WHITE: If I could explain the basis for the objection, one Plaintiff only claims in pretrial to have been injured by these documents. However, in his testimony nothing was said about any injury arising from this activity. It's my belief that the sole purpose these documents would serve is to mislead the jury inasmuch as no Plaintiff has testified regarding any injury from these activities.

MR. SCHEMBER: Reverend Eaton testified that he was involved in the logistical arrangements for the Poor People's Campaign. The purpose of this memorandum was to curtail the success of the fund raising for that project. There is an indication on the second page that the news release designed to accomplish that purpose was

implemented. That is shown by the word "handled," and we have had testimony that the word handled means it was done.

THE COURT: The objection is overruled.

(Before the jury.)

BY MR. SCHEMBER:

Q. Mr. Moore, what was the purpose of this memorandum?

A. The stated purpose of the memorandum was to recommend an item be furnished a cooperative national news media source by crime records designed to curtail the success of Martin Luther King's fund raising for the Washington Spring Project.

Q. What was the Washington Spring Project?

A. It's my recollection that -- refreshed by this memorandum, incidentally -- that it had to do with the Poor People's March on Washington, D. C. that was scheduled in the latter part of April of 1968.

Q. And why did the FBi want to curtail the success of the fund raising for that march?

A. The memorandum does not so state, and I have no recollection.

Q. What was the nature of the item that was to be -- that was recommended to be furnished to the news media?

A. Stated in the memorandum that the purpose of it was to let the public know that Dr. King did not need

contributions from the 70,000 people he solicited, since the churches had already offered support, and no more money was needed.

Q. And by publicizing that information, the FBI sought to curtail the success of further fund raising?

A. It seems that that is the implication here.

Q. Mr. Moore, how does an action of that kind fit within the purposes of the counterintelligence program?

A. It would be an opinion on my part.

Q. Mr. Moore, you --

A. Would you like my opinion?

Q. Yes, I would.

A. My opinion, in the very broad sense of the word, the only way you could say it fit in -- and that would be to do what could be done to keep the magnitude of the demonstration down, and then, in that way, no violence could erupt. That's the only way that I could answer that question. And that's an opinion. I don't know whether that was the thinking at that time or not.

Q. You're saying that it was your desire to reduce the size of the demonstration?

A. No. I'm saying that's my opinion now in answer to your question.

MR. SCHEMBER: Your Honor, at this time I would move Plaintiffs' Exhibit 10 into evidence.

THE COURT: Received.

MR. WHITE: I would just note for the record my objection.

THE COURT: Okay.

(Plaintiffs' Exhibit No. 10 was received in evidence.)

BY MR. SCHEMBER:

Q. Mr. Moore, before we leave 10, I'd like to ask you to examine page 2 of that document. Can you read any of the handwriting that appears below the typewriting?

A. Page 2 of the cover memorandum, I can read some of the initials. Mr. Tolson's initials --

Q. How are Mr. Tolson's initials indicated? What are they? Can you describe them?

A. I can actually show it to you. I can show it better than I can describe it.

Q. Would you place a circle around Mr. Tolson's initials.

A. Yes.

Q. Mr. Moore, you've circled an initial that appears to be a checkmark on that document?

A. That's correct.

Q. Is that the manner in which Mr. Tolson signed his name?

A. That was his T, yes. It looks something like

a checkmark, but it's supposedly a T.

Q. Is there any other writing on this document, page 2, that you recognize?

A. Yes, other initials, W. C. S., an initial in the upper right-hand corner which I can't decipher.

Q. Can you make out any of the words that are not initials?

A. Yes, and down -- written with a lead down under action, it says that the facts about King's solicitation of funds unnecessarily be given a cooperative news source by the Crime Records Division. There's a line extending from that, and it says, "Handed 4" -- I can't read the date, but it's in April, 1968 with someone's initials under it.

Q. Mr. Moore, I've placed before you a document marked for identification as Plaintiffs' Exhibit 11. Can you describe this document?

A. This is a document or memorandum, G. C. Moore to W. C. Sullivan, dated May 14, 1968. The caption is Counterintelligence Program - Black Nationalist - Hate Groups, Racial Intelligence (Poor People's Campaign).

Q. Do your initials appear on the document?

A. My initials do appear on the document.

Q. And what was the purpose of the preparation of this document?

A. The stated purpose of this document is to recommend an item about a number of teenagers in the Poor People's Campaign be furnished to news media source on a confidential basis by the Crime Records Division.

Q. Was the Poor People's Campaign another name or another aspect of the Washington Spring Project?

A. It's my recollection that after the assassination of Dr. Martin Luther King that the people who ran this particular demonstration changed the name to the Poor People's Campaign.

Q. From Washington Spring Project to the Poor People's Campaign?

A. That's my understanding and my recollection.

Q. And the same act and the same idea, same notion?

A. Probably the same notion, yes. Same general purpose.

Q. Do you recognize any of the signatures or initials on the bottom of page 1?

A. Page 1? It's very poor copy, but I can recognize three initials offhand.

Q. And which initials are those?

A. Someone signed for Mr. W. C. Sullivan, and it appears to be his inspector, his assistant. There's another initial who is an inspector of another office, which was the Office of Assistant to the Director, and it appears

to be another initial, which is the head of the Crime Records Division.

Q. And who was the head of the Crime Records Division?

A. According to this memorandum, which refreshes my recollection again, Mr. Bishop, T. E. Bishop, B-i-s-h-o-p.

Q. And what is the significance of the initials on the document that you referred to?

A. Those were part of the channel whence a document went before it was approved through the Bureau, the hierarchy of the Bureau, from the person who originated it up until the point of approval among the officials of the Bureau.

Q. Can you tell from this document whether the recommended action was approved by your superiors?

A. By my superior?

Q. Yes.

A. My superior on this particular memorandum would be the person who signed it for Mr. C. Sullivan. He approved it in the chain of command, but the document went further than him.

Q. What is the highest level of approval that you can detect on this document?

A. It's hard to detect.

Q. As best as you can detect?

A. I'm going to have to guess at this one, because it looks as if the highest level was the Assistant to the Director.

Q. And who was the Assistant to the Director at that time?

A. Mr. DeLoach in this particular instance.

Q. Was Mr. Bishop in the line of authority between you and Mr. DeLoach at that time?

A. He was an Assistant Director, and I was a section chief. He was much higher than I was.

Q. Was he in the direct line of authority between you and the Assistant to the Director?

A. On certain matters. This type of matter, yes.

Q. Did the Assistant -- was it the Assistant to the Director who was the highest level of approval that you could detect on this document?

A. On this document --

Q. Yes.

A. -- the assistant to the Director was the highest. That was Mr. DeLoach.

Q. And how --

A. Mr. Bishop was beneath him. He was an Assistant Director.

Q. I understand.

How many levels of authority were there between

Mr. DeLoach and Mr. Hoover, the Director of the FBI at that time?

A. Well, from Mr. DeLoach, there was Mr. Tolson above him, and then the Director. Mr. Tolson was the Associate Director.

Q. Did Mr. Loach have authority to approve the implementation of counterintelligence program actions at this time?

A. It's my recollection that he did.

Q. Was it the routine practice of the FBI to implement actions approved by the Assistant to the Director?

A. If he had the authority, that was the practice.

MR. SCHEMBER: Your Honor, at this time I would move Plaintiffs' Exhibit 11 into evidence.

MR. WHITE: I would object again, Your Honor, as to the materiality of it.

THE COURT: Overruled. It will be received.

(Plaintiffs' Exhibit No. 11 was received in evidence.)

BY MR. SCHEMBER:

Q. Mr. Moore, I've placed before you an exhibit marked for identification as Plaintiffs' Exhibit 12. What is that?

A. This is a memorandum from C. C. Moore to Mr. W. C. Sullivan dated 6-5-68, captioned Counterintelligence

Program - Black Nationalist - Hate Groups, Racial Intelligence (Poor People's Campaign).

Q. Mr. Moore, was the Poor People's Campaign a hate group?

A. The Poor People's Campaign was a demonstration.

Q. Would you consider the -- did the FBI or you in your official capacity consider the organizers of the Poor People's Campaign to constitute a hate group?

A. I can't remember who the organizers are or were of the Poor People's Campaign, and I can't really answer your question.

Q. What was the purpose of the preparation of this memorandum?

A. The purpose of the preparation of this memorandum was to recommend an item about the large number of cars brought by the Poor People's Campaign be furnished a cooperative news media source by Crime Records on a confidential basis.

Q. And what was the purpose of informing cooperative news sources of the number of cars being used?

A. It was pointed out in this memorandum -- it says, "Although the campaign was to dramatize alleged poverty, the campaign has spent, actually, thousands of dollars for cars and buses.

Q. Wasn't it the purpose of this release, then,

to discredit the campaign in that sense?

A. I think that's a fair assessment.

Q. Do you recognize any handwriting on either of the two pages constituting 12 which indicate to you approval for the implementation of this recommended action?

A. Yes. Again, this is a poor copy, but some of the initials are legible enough to recognize, and the most senior official of the FBI whose initials I recognize would be Mr. DeLoach's.

Q. And he was Assistant to the Director?

A. Assistant to the Director.

Q. That would be, essentially, third in command of the Bureau?

A. Well, it went from the Assistant to the Director, the Associate Director, and the Director of the FBI. I'll slow down a little bit. It would be from the Assistant to the Director. The next step up, Associate Director, and then the Director himself.

Q. Mr. Moore, could you examine the original of that exhibit marked for identification. On the first page, do you see where the word "enclosure" is typed toward the bottom?

A. Yes, I do.

Q. Do you see handwriting to the left of that word above blocked out portions?

A. Yes, I do.

Q. Can you read that handwriting, the word that's there, or words?

A. It's partially legible, and it appears to be "Handled".

MR. SCHEMBER: Your Honor, at this time I would move Plaintiffs' Exhibit 12 into evidence.

MR. WHITE: One again, Your Honor, I would object to the materiality on this because no Plaintiff has claimed any injury.

THE COURT: Same ruling.

(Plaintiffs' Exhibit No. 12 was received in evidence.)

BY MR. SCHEMBER:

Q. Mr. Moore, do you recall in 1969 the existence of a dispute between the Black United Front and the New Mobilization Committee to End the War in Vietnam?

A. No, I do not.

Q. Do you have any recollection of an incident involving a demand for payment by the Black United Front from the New Mobilization Committee?

A. No, I do not.

Q. Would you examine Plaintiffs' Exhibit 24. Did you receive a copy of that document?

A. It stated that a particular designation was made

to Mr. G. C. Moore.

Q. Would you examine the note.

A. I do not recollect, incidentally, receiving the copy of it, in response to your question.

Q. Does the note on that document refresh your recollection as to the existence of a money demand?

A. No, it doesn't.

Q. Judging just from the face of the document and your expertise as former chief of the Racial Intelligence section, can you explain why this document would have been routed to you?

A. It was routed to the section with my name. It was routed because it pertained to an organization that I believed at that time was the subject of an investigation by the section which I headed.

Q. It was also subject to counterintelligence program action, was it not?

A. Yes. The caption here is COINTELPRO - New Left, but it pertained to an organization under an investigation by my section, and that's the reason it was routed, evidently.

Q. And what was the name of the organization that was of concern to your section?

A. Black United Front.

Q. Mr. Moore, I've placed before you a document marked for identification as Plaintiffs' Exhibit 26. What

A. The purpose, as I so stated, would have been the purpose. It was to keep an index of dangerous individuals in case of a national defense emergency.

Q. And what would happen to the persons on that index in the event a national emergency would occur?

A. Again, I'm hazy. I didn't handle that program, and I'm hazy on it. But it's my recollection that the Department of Justice and the Bureau had plans, contingency plans, formulated which would entail neutralization of those individuals through Constitutional procedures.

Q. Neutralization?

A. So they could not sabotage or commit espionage.

Q. What do you mean --

A. Making arrests. Arrest. Neutralization through arrest. Detention.

Q. Arrest and detention?

A. Yes, perhaps. I'm not really that clear. I'm not the proper person to know the facts on that.

Q. Are you familiar with the term Agitator Index?

A. Yes, I am.

Q. What's the Agitator Index?

A. The Agitator Index is an index of individuals who showed a proclivity for fomenting violence through agitation.

Q. And was there a time period in which the Bureau

maintained the Agitator Index?

A. There was a time period, but I'm not familiar with the time period.

Q. Do you roughly recall when it was?

A. It would have been somewhere during the riots, when it originated. I don't know when it was discontinued.

Q. Late sixties, early seventies?

A. It would certainly be in the late sixties or maybe early seventies. I don't know the date.

Q. Do you know which division of the FBI Headquarters was responsible for maintaining or supervising the maintenance of the Agitator Index?

A. I believe there was a separate individual, but I don't know which section it was, who handled the Agitator Index.

Q. Was it your section?

A. Our section had a number of people on the Agitator Index, but I don't think we had that responsibility.

Q. Are you familiar with the term Rabble Rouser Index?

A. I believe that was a predecessor to the Agitator. Again, I'm not sure of that. I'm not positive.

Q. As best you can recall, same index, different name for it?

A. I think that is so, but I'm not positive.

proposal contained in it?

A. Yes. At a higher level than the section chief on this particular document it was approved by an Assistant Director of the Domestic Intelligence Division, and then it was approved at a level of an Assistant to the Director. It was approved at the level of the Associate Director's office, and finally it was approved by the Director of the FBI.

Q. What is the significance, Mr. Moore, of approval by the Director of the FBI?

A. The significance of the approval by the Director of the FBI is that any document without his approval certainly does not constitute policy until he approves it, unless the person who approved it without it going to him had authority to so make policy.

Q. Now, Mr. Moore, if you would turn, please, -- it should be there before you -- to Exhibit No. 12.

Do you have that before you now, sir?

A. Yes.

Q. Would you describe again for the jury, please, just briefly what this document is.

A. This is a document, an AIRTEL from the Director of the FBI to a number of offices, eight offices including sent to Chicago, dated 8-21-69, captioned COINTELPRO - New Left BUDED, 8-29-69.

Q. What is the meaning of the word, I guess we can call it, BUDED?

A. BUDED is a deadline. Everything had a deadline in the Bureau. This means the deadline for action, to notify the Bureau, 8-29-69.

Q. Can you tell from the face of this document who was the author of it?

A. This document was authored by Mr. B. A. Wells, W-e-l-l-s.

Q. Was he a member of your section at this time in August of 1969?

A. He was not a member of my section.

Q. Looking at the document, sir, did you play any role in the creation of this document or in its approval before it was sent to the Field Offices?

A. I have no recollection of ever having done so.

Q. Do your initials appear on the face of this document in any location?

A. I do not see my initials on the document.

Q. Mr. Moore, the documents that you've looked at, Exhibit 1 and Exhibits 2A and 2B, created a counterintelligence program - Black Nationalist Hate Groups. Was this program in any way a personal policy either established by you or which -- well, I think I'll stop the question there. Was it a personal policy of yours?

A. Absolutely not. It was the policy of the Director, the policy of the FBI.

Q. Did you have the power or the authority as a section chief to disregard that program?

A. Absolutely not.

Q. What were your duties with regard to that program?

A. My duties were sitting as an office manager. It was to manage programs that came within the sphere of my responsibilities, and that is to carry out the policy of the program, to implement the program.

Q. Mr. Moore, to the best of your recollection, when did the counterintelligence program become publicly known?

A. I don't know the date, but I believe it became publicly known when an FBI office on the outskirts of Philadelphia called Media, Pennsylvania, was broken into and burglarized, and the individuals who did it found some documents which they publicized showing the counterintelligence program.

Q. Can you recall approximately the date that that might have occurred?

A. I believe it was in either 1970 or '71, but I'm not sure of the date.

Q. Were you still in the FBI at the time this burglary occurred?

A. I was.

Q. Now, sir, if you would look, please, at Exhibit No. 7.

A. Okay.

Q. Would you describe again for the jury, please, what this document is.

A. This was a memorandum, G. C. Moore to C. D. Brennan dated August 20, 1970, captioned Counterintelligence Matters - New Left - Black Panther Party, which requested pamphlet preparation of a newspaper article from the New York Times describing antisemitism of New Left and Black Panther Party for anonymous mailing.

Q. From your examination of the document, sir, can you determine the name of the person who prepared this memorandum?

A. Prepared -- J. F. M, and his name is indicated at the top, as Mr. Morrissey.

Q. At the point at which your name appears on the "From" line, do your personal initials appear next to that name?

A. My personal initials do not appear on the document.

Q. Can you tell from the copy that you have who initialled the document?

A. It's hardly legible, but it appears to have been my assistant at that time.

Q. And what was his name, sir?

A. Mr. Rushkin.

Q. Directing your attention to the bottom of the first page of that document, from your examination of that document can you determine the highest level at which this document was approved?

A. It appears to have been approved by the Director of the FBI, Mr. Hoover.

Q. Mr. Moore, turning now to Exhibit No. 10, --

A. Okay.

Q. -- would you again, please, describe what this document is.

A. This is a memorandum from G. C. Moore to W. C. Sullivan dated March 25, 1968, Counterintelligence Program - Black Nationalist Hate Groups, Racial Intelligence, Washington Spring Project.

Q. And do your initials appear next to your name on the "From" line?

A. These are the initials which I told Mr. Schember that I have difficulty ascertaining whether they're mine. They do not look like my initials, and it looks like somebody may have initialled for me with a slant -- not a slant, but there's a little doodad, which is illegible. It's not the way I ordinarily make my initials.

Q. Mr. Moore, looking at the last page of Exhibit

No. 10, there are two paragraphs appearing on that page. Would you state briefly for the jury, please, the nature of those two paragraphs or summarize their contents, please.

A. The article pointed out that Dr. King found himself in the embarrassing position of having too much money or the probability of having too much money, and there had been a large mailing to his contributors. It says, "asking contributors to support the march financially to feed and house people at the same time the churches had already offered to house and feed them." And it was indicated in the second paragraph that the contributions began to roll in and an embarrassment of riches had fallen on Dr. King, who would only use the money for other purposes.

Q. To your personal knowledge, was the information regarding the requests for contributions and the offers by the churches to house and feed the demonstrators true or false information?

A. I have no recollection of that.

Q. To your knowledge, was this material actually published in any publication or newspaper in the United States?

A. I have no knowledge or recollection of that.

Q. On this document on page 2 --

A. Still 10?

Q. Yes, sir.

A. Okay.

Q. You testified earlier that the word "Handled" appears in handwriting there. Sir, to the best of your knowledge, what does the word "Handled" mean in the context of this document?

A. I would say that the word handled meant that there is an action notation that the facts about Dr. King's solicitation of funds be given to a cooperative news source and then it says "Handled", and I would assume that means that someone gave it to a cooperative news source.

Q. Do you have any personal knowledge that that was done other than your own personal interpretation?

A. I have no personal knowledge.

Q. Mr. Moore, now looking at Exhibit No. 11, Plaintiffs' Exhibit No. 11, --

A. Okay.

THE COURT: Mr. White, why don't we let the jury stretch their legs a moment. It has been a long afternoon.

MR. WHITE: Certainly, Your Honor. I'll be happy to do that.

I will try to conclude in about 15 minutes, Your Honor.

BY MR. WHITE:

Q. Now, Mr. Moore, looking now at paragraph -- I

beg your pardon -- Exhibit No. 11, --

A. Yes, sir.

Q. -- would you describe briefly for the jury, please, what this document is.

A. This is a memorandum from G. C. Moore to W. C. Sullivan, Mr. W. C. Sullivan, dated May 14, 1968 entitled Counterintelligence Program - Black Nationalist Hate Groups, Racial Intelligence, Poor People's Campaign, and this was a cover memorandum recommending that an article about a number of teenagers, young people or young men in their early twenties were coming to Washington, D. C. as part of the Poor People's Campaign, and this injected an unstable element with a real potential for violence.

Q. To the best of your knowledge and recollection, was this information regarding the number of young persons coming to Washington in connection with the Poor People's Campaign true or false?

A. From the contents of the memorandum, it appears that this was true information.

Q. Did any --

MR. SCHEMBER: I would object to that.

THE COURT: Sustained. It's irrelevant, isn't it?

MR. SCHEMBER: Your Honor, I would move that the answer be stricken.

THE COURT: That's not necessary.

MR. WHITE: Your Honor, I might say that I believe it's relevant as to the question whether a person would be injured by the publication of true information, which is the grounds on which this is offered.

THE COURT: The objection is sustained.

BY MR. WHITE:

Q. Mr. Moore, looking at the face of the document, can you identify, please, the highest level at which this document was approved?

A. This is Plaintiffs' Exhibit 11 again -- still?

Q. Yes, sir.

A. The highest level of approval was the Assistant to the Director, Mr. DeLoach.

Q. Turning now to Plaintiffs Exhibit No. 12, --

A. Okay.

Q. -- would you describe, please, for the jury the nature of this document.

A. This is a document that we previously talked about, G. C. Moore to Mr. W. C. Sullivan, dated June 5, 1968, Counterintelligence Program - Black Nationalist Hate Groups, Racial Intelligence, Poor People's Campaign, which recommended that a cooperative news media source be furnished information about the expenditure of money for the purchase of a large number of cars by the Poor

People's Campaign.

Q. To your knowledge, sir, was this information true or false?

A. I have no information which would indicate either way. No recollection, that is, of any information. I have no recollection.

Q. Who was the author of this document, Mr. Moore?

A. Well, the initials are obliterated from the copy I have, but the last initials are J. D., and the last person on the designated list is Mr. Deakin, so it appears that he was the one who prepared it.

Q. I'm not sure I've asked this question. I apologize if I have. What is the highest level of authority who approved this document?

A. This was approved by Mr. DeLoach, as Assistant to the Director.

Q. Now, Mr. Moore, if you would turn to Exhibit No. 24, please.

A. Okay.

Q. If you would, sir, please describe this document briefly to the jury.

A. This is a one-page communication from the Director of the FBI to the SAC - New York, COINTELPRO - New Left.

Q. Do you have any personal recollection as to whether you actually saw this document at the time it arrived at

FBI Headquarters?

A. I have no recollection of ever having seen it.

Q. Is there anything on the document itself which suggests that you saw the document?

A. The only thing on the document is that a copy was designated -- that's called a tickler copy -- was designated to Mr. C. C. Moore. That does not indicate that I saw it.

Q. What does it indicate, sir?

A. That is a routing device meaning that a copy came to my section, and from that point on, it could have been routed to the desk of interest, supervisor of interest.

Q. Were you in any way responsible for the approval of this document?

A. The answer is no.

Q. Looking now, sir, at Exhibit No. 26 --

A. Okay.

Q. -- do you have any present recollection of having seen this document -- oh, I'm sorry. If you would, please, describe to the jury the nature of this document.

Q. This is a memorandum from Mr. C. D. Brennan to Mr. W. C. Sullivan dated 9-5-69 entitled Counterintelligence Program - New Left. It's a memorandum that recommended for approval under the Mass Media Program of a memorandum revealing evidence of dissatisfaction of militant blacks

with the New Left.

Q. Do you have any present recollection of having seen this document at the time in which it was prepared in FBI Headquarters?

A. I --

THE COURT: I missed the number.

MR. WHITE: I'm sorry, Your Honor. This is Exhibit 26.

THE COURT: Thank you.

THE WITNESS: I have no recollection of ever having seen it.

BY MR. WHITE:

Q. Is there anything on the face of the document which would suggest that you had, in fact, seen it?

A. The tickler copy was designated for Mr. G. C. Moore.

Q. And what is the significance of that, sir?

A. Again, that is for routing purposes. A copy would come into my section and then be routed to the appropriate individual.

Q. Did you play any part in the approval of this document?

A. I played no part in the approval of the document.

Q. From your examination of the document, however, can you identify the highest level in the FBI at which

this document was approved?

A. This was approved by the Director of the FBI, Mr. Hoover.

Q. Now, Mr. Moore, if we could go back to Exhibit 2B just briefly, I would like to direct your attention, sir, to page 4 of Exhibit 2B.

Just to refresh the recollection of the jury, would you describe what Exhibit 2B is, and then we will go to page 4.

A. Yes. 2B is an AIRTEL to SAC - Albany and a number of other offices, which extended the operation of the Black Nationalist Hate Groups counterintelligence program -- extended it on a much broader area.

Q. Now, looking at page 4, sir, at the paragraph beginning "Targets" at the middle of the page --

A. Yes.

Q. -- is there anything in that paragraph which suggests that the Southern Christian Leadership Conference as an organization was a target of this program?

A. It doesn't show -- it doesn't suggest that the organization itself -- it mentioned persons affiliated with the organization.

Q. And does it -- what does it say, if anything, about persons affiliated with that organization?

A. It says, "Primary targets should be the most

violent and radical groups and their leaders, and we should emphasize those leaders and organizations that are nationwide in scope and are the most capable of disrupting this country. These targets should include the radical and violence-prone leaders, members, and followers of.." -- and they mention four organizations, one of which was the Southern Christian Leadership Conference.

Q. Now, turning back, sir, to page 3, and also we'll be going back to page 4, but there are on page 3 -- are listed the goals of the organization. You testified about that earlier?

A. Yes, yes.

Q. How many goals are listed on those two pages?

A. Five goals.

Q. Is there any goal among those five that does not refer either to militant groups or to the prevention of violence?

A. All of them refer to either of those two.

MR. WHITE: That's all I have, Your Honor.

THE COURT: Mr. Barclay?

MR. BARCLAY: I have no questions of this witness, Your Honor.

THE COURT: You may redirect, Mr. Schember.

MR. SCHEMBER: Thank you, Your Honor.

REDIRECT EXAMINATION

BY MR. SCHEMBER:

Q. Mr. Moore, Mr. White asked you some questions about Plaintiffs' Exhibit 18. You testified that the author of that document was Bernard Wells, did you not?

A. B. E. W., yes, Mr. Wells.

Q. And what Mr. Wells was not a subordinate of yours?

A. That's correct.

Q. Page 2 of the document does refer to a subordinate of yours, does it not?

A. That is correct.

Q. And that is Mr. Deakin?

A. That is correct.

Q. And the document states that this matter has been coordinated with Mr. Deakin?

A. That is correct.

Q. Mr. Moore, you testified that the Black Nationalist counterintelligence program wasn't your personal policy, but that it was your responsibility to implement that program?

A. That's correct.

Q. Did you ever recommend that it be terminated?

A. No, I did not.

Q. How many levels of authority were there above you when you were chief of the Racial Intelligence section?

A. At least seven.

Q. And were those seven large units or were those essentially seven men?

A. There were seven officials.

Q. Would it be fair to say that you were the eighth ranking person in the FBI sharing that place with other section chiefs?

A. I don't know whether it would be fair to say or not. If you wanted to -- I was -- from a signature/mail process or signature approval process, I was on the eighth level in that particular division, yes.

Q. And the eighth level, that meant being below seven individuals?

A. Above me, right.

Q. Those individuals --

A. Starting with Mr. Hoover at the top, yes.

Q. Mr. White asked you some questions concerning the termination of the counterintelligence programs, and you mentioned that they were terminated because of a burglary that occurred in Media, Pennsylvania?

A. No, I don't believe I testified to that. I think he asked --

Q. What was your testimony about the termination of the program?

A. I thought he asked me when it was publicized --

THE COURT: You're talking about two different

things. Early in the testimony somebody asked about how long a program went on, and then there was another question about when it became public knowledge.

THE WITNESS: Yes. That was my recollection. And I first heard that it became public knowledge with the burglary in Media. I don't remember the date that it was terminated.

BY MR. SCHEMBER:

Q. Do you recall the -- how did the burglary result in the program becoming public knowledge?

A. It's my recollection that there was publicity; whoever committed the burglary used that information and it was published in newspapers. That's my recollection, but I'm not sure if it's a true recollection or not.

Q. Those documents that were publicized in the news media contained the designation COINTELPRO?

A. I believe so.

Q. And until that time the word COINTELPRO was not known outside the FBI?

A. I believe that's true.

Q. Do you recall whether efforts were -- any efforts on the part of the news media to obtain further information from the FBI as to what the meaning of COINTELPRO was?

A. You'll have to ask me that again. Say that again. I can't --

Q. Subsequent to the wide publicity given to these documents, were you aware of other efforts to obtain -- by the news media -- to obtain more information from the FBI concerning the program?

A. I'm aware of one particular instance, and I believe it resulted in the eventual publication of the information, at least of documents concerning counterintelligence programs which went through a court action.

Q. Are you referring to a lawsuit?

A. I believe there was a lawsuit, and I believe it was instituted by an NBC correspondent. I can't remember his name.

Q. And what happened --

A. To make public knowledge the name of COINTELPRO.

Q. Was it not as a result of that lawsuit that the Bureau chose to terminate the program?

A. I don't think so. I don't believe that's correct. I believe that the Bureau chose to stop the program before the lawsuit was instituted. But, again, this is a matter of record somewhere. I just don't know.

Q. Mr. Moore, I've placed before you a document that's marked for identification as Plaintiffs' Exhibit 36. Does this document refer to the termination of the counterintelligence programs?

A. It does.

Q. Did you receive -- do you have -- are you familiar with this document?

A. I am familiar with the document.

Q. Do your initials appear on the document?

A. In one place, in the middle of the page on the right-hand column, you will see several names written. After the approval of the document, it was sent to my section, and I initialled it for my section where it says G. C. Moore on the face of the document. I was not in the approval process.

Q. Does this document indicate to you that the termination of the programs occurred?

A. Yes.

Q. What indicates that to you?

A. Well, it indicates, "If approved, attached AIRTEL will be sent to all offices discontinuing our COINTELPROS."

Q. And was that AIRTEL --

A. The AIRTEL was sent. It's attached. And it's dated 4-8-71.

Q. Does Mr. Hoover's approval for the termination of the program appear there?

A. Yes, it does.

Q. And which counterintelligence programs were terminated